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No. 05-915

Supreme Court, U.S.
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IN THE

Supreme Court of the United States

CRYSTAL D. MEREDITH, CUSTODIAL PARENT
AND NEXT FRIEND OF JOSHUA RYAN MCDONALD,
Petitioner,

v.

JEFFERSON COUNTY BOARD OF EDUCATION, *et al.*,
Respondents.

On Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit

JOINT APPENDIX

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UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF KENTUCKY

CASE NO. 3:02-CV-00620-JGH

DAVID MCFARLAND, Parent and Next Friend of Stephen and Daniel McFarland, *et al.*

v.

JEFFERSON COUNTY BOARD OF EDUCATION, *et al.*

RELEVANT DOCKET ENTRIES

DATE	DESCRIPTION
Oct. 21, 2002	COMPLAINT filed; (Summons(es) issued) filing fee pd (Entered: 10/22/2002)
Nov. 8, 2002	MOTION by defendant to reassign/transfer case to Chief Judge Heyburn; Memorandum in Support; order tendered (Entered: 11/12/2002)
Nov. 13, 2002	ANSWER by defendants Jefferson Cty Public, Jefferson Cty Bd Ed, Stephen Daeschner (Entered: 11/15/2002)
Dec. 17, 2002	ORDER by Judge Jennifer B. Coffman granting motion to reassign/transfer case to Chief Judge Heyburn; case reassigned to Chief Judge John G. Heyburn II, for further proceedings (Entered: 12/17/2002)
Jan. 23, 2003	ORDER ON CONFERENCE by Chief Judge John G. Heyburn II; plaintiff granted till 3/4/03 to add parties; pretrial conference held on 1/21/03, CASE STAYED pending a

DATE	DESCRIPTION
	decision by the US Supreme Court (Entered: 01/23/2003)
Mar. 5, 2003	AMENDED COMPLAINT by David McFarland; adding Ronald Jeffrey Pittenger (Entered: 03/06/2003)
May 2, 2003	ORDER by Chief Judge John G. Heyburn II granting motion for leave to file 3rd amd cmp, granting motion for leave to file 2nd amd cmp (Entered: 05/02/2003)
May 2, 2003	SECOND AMENDED COMPLAINT by plaintiff; adding Anthony Underwood (Entered: 05/02/2003)
May 2, 2003	THIRD AMENDED COMPLAINT by plaintiff; adding Crystal D. Meredith (Entered: 05/02/2003)
May 7, 2003	ANSWER by defendants to First Amended Complaint (Entered: 05/07/2003)
May 7, 2003	ANSWER by defendants to Second Amended Complaint (Entered: 05/07/2003)
May 7, 2003	ANSWER by defendants to Third Amended Complaint (Entered: 05/07/2003)
May 28, 2003	MOTION by plaintiff for order to end the use of racial quotas; Memorandum in Support; order tendered (Entered: 05/29/2003)
July 24, 2003	ORDER by Chief Judge John G. Heyburn II denying motion for leave to file fourth amended cmp, denying motion for order to end the use of racial quotas, denying motion to extend time for additional plaintiffs to join action to 5/9/03; pretrial conferenceheld

DATE	DESCRIPTION
	on 7/21/03; pretrial conf set for 9:30 11/10/03 before Chief Judge John G. Heyburn II; evidentiary hearing set for 1:30 12/8/03 and 12/9/03 at 9:30 before Chief Judge John G. Heyburn II (Entered: 07/24/2003)
Nov. 21, 2003	STIPULATION of Facts by Stephen W. Daeschner; Jefferson County Board of Education; Jefferson County Public Schools; David McFarland; Crystal D. Meredith; Ronald Jeffrey Pittenger; Anthony Underwood. (Attachments: #(1) Table of Contents #(2) Exhibit List (Exhibits in separate folders)) (Entered: 11/21/2003)
Jan. 7, 2004	ORDER for proceedings held before John G. Heyburn II: Evidentiary Hearing held December 8,9,10,11 & 12, 2003. Transcript testimony due by 1/13/2004. Simultaneous briefs due by 1/30/2004, replies by 2/15/2004. (Entered: 01/08/2004)
June 29, 2004	MEMORANDUM OPINION AND ORDER by John G. Heyburn II on 6/29/04; for the reasons set forth, Plaintiffs' request for relief is granted only to the extent that JCPS shall revise the student assignment process for traditional magnet schools in a manner consistent with the accompanying memorandum opinion in time for its use in the 2005-2006 school year assignments; as to all other aspects of the JCPS student assignment plan, plaintiffs' requests for relief are denied; this is a final and appealable order. (Entered: 06/29/2004)

DATE	DESCRIPTION
July 23, 2004	NOTICE OF APPEAL by Crystal D. Meredith. Filing fee $ 255, receipt number 108234. (Entered: 07/26/2004)

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

CASE NO. 04-5897

DAVID MCFARLAND, Parent and Next Friend of Stephen and Daniel McFarland, *et al.*

v.

JEFFERSON COUNTY BOARD OF EDUCATION, *et al.*

RELEVANT DOCKET ENTRIES

DATE	DESCRIPTION
Aug. 5, 2004	Civil Case Docketed. Notice filed by Appellant Crystal D. Meredith.
June 9, 2005	CAUSE ARGUED by Teddy B. Gordon for Appellant Crystal D. Meredith, Francis J. Mellen for Appellee Stephen W. Daeschner, Appellee Jefferson County Bd, Appellee Jefferson County Pub before Judges Norris, Daughtrey, Jordan.
July 21, 2005	Per Curiam OPINION filed: AFFIRMED, decision for publication pursuant to local rule 206. Alan E. Norris, Circuit Judge, Martha C. Daughtrey, Circuit Judge, R. L. Jordan, U.S. District Judge for the Eastern District of Tennessee.
Aug. 4, 2005	PETITION for en banc rehearing filed by Teddy B. Gordon for Appellant Crystal D. Meredith.

DATE	DESCRIPTION
Oct. 21, 2005	ORDER filed denying petition for en banc rehearing filed by Teddy B. Gordon. Alan E. Norris, Martha C. Daughtrey, Circuit Judges; R. L. Jordan, District Judge.
Oct. 31, 2005	MANDATE ISSUED with no cost taxed

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
AT LOUISVILLE

NO. 3:02CV-620-C

DAVID MCFARLAND, Parent and Next Friend of Stephen and Daniel McFarland

-and-

CRYSTAL D. MEREDITH, Custodial Parent and Next Friend of Joshua Ryan McDonald
1025 E. Caldwell Street
Louisville, KY 40202

Plaintiffs,

vs.

JEFFERSON COUNTY BOARD OF EDUCATION AND STEPHEN DAESCHNER

Defendants.

THIRD AMENDED COMPLAINT

Come the Plaintiffs, David McFarland, Parent and Next Friend of Stephen and Daniel McFarland; Ronald Pittenger, Parent and Next Friend of Brandon Pittenger; Anthony Underwood, Custodial Parent and Next Friend of Max Aubrey, and Crystal D. Meredith, Custodial Parent and Next Friend of Joshua Ryan McDonald, and for their amended cause of action, state as follows:

1. Reiterate each and every allegation of the Plaintiff's original Complaint, Amended Complaint, and Second Amended Complaint.

2. That the Plaintiff, Joshua Ryan McDonald, was denied entry into his neighborhood school due to racial

guidelines established by the Defendant, Jefferson County Public School system and/or Jefferson County Board of Education. (See Exhibit 1) That Joshua Ryan McDonald is unable to attend the school of his choice due to unconstitutional racial quotas and based on those unconstitutional racial quotas now is forced and compelled Whitney Young Elementary School.

3. That all elementary schools should be returned to "neighborhood" elementary schools with an open enrollment policy so that a child can go to a school closest to their home or next closest to their home, regardless of race.

4. That in regard to the "special programs," such as the traditional schools, all openings should be open to all applicants regardless of race or gender. That said names should be drawn at random from a common pool to all openings to Jefferson County Traditional Middle School.

5. That the Defendant, JCBE, has admitted that they continue to use racial quotas as a criterion, if not the sole criterion, for placement of our children in the public schools of Jefferson County, Kentucky.

6. That further, the Defendants, JCBE, has admitted in a publication previously attached as Exhibit 5 that the first criterion for those helping parents to apply for choosing a school for the 2003 school year is to check the race code.

7. That the use of race is constitutionally prohibited and a continued violation of the constitutional and due process rights of the Plaintiffs herein for which the Plaintiffs ask for immediate relief in the form of a restraining order and/or injunction enjoining and restraining the Defendants herein from further use of the unconstitutional assignment plan with the use of race.

8. That race should no longer be the primary factor in determining where a child does or does not go to school anywhere in Jefferson County, Kentucky.

9. That the Plaintiffs will suffer immediate and irreparable harm in the continued violation of their constitutional rights if said restraining order and/or injunctive relief is not granted to them for the upcoming 2003-2004 school year.

10. That Plaintiffs request that their children be admitted to the school of their choice for the 2003-2004 school year, regardless of their race or gender.

11. That Plaintiffs herein specifically reserve the right to amend this Complaint as other Plaintiffs become known to them.

WHEREFORE, the Plaintiffs, David McFarland, Parent and Next Friend of Stephen and Daniel McFarland; Ronald Pittenger, Parent and Next Friend of Brandon Pittenger; Anthony Underwood, Custodial Parent and Next Friend of Max Aubrey, and Crystal D. Meredith, Custodial Parent and Next Friend of Joshua Ryan McDonald, demand as follows:

1. Reiterate each and every demand as stated in the original Complaint of David McFarland, and all Amended Complaints previously filed of record.

2. That the Defendants, JCBE, immediately be restrained and enjoined from continued implementation of the Student Assignment Plan per race/gender for the upcoming 2003-2004 school year.

3. Damages for this Plaintiff in the sum of $25,000.00.

4. Attorney's fees where allowed by law.

5. Order directing that this Plaintiff and all other Plaintiffs may attend their neighborhood school and/or

school of their choice without regard to race and/or gender.

6. Any and all other relief to which this Plaintiff may appear entitled.

/s/ Teddy B. Gordon

TEDDY GORDON
Attorney for Plaintiffs
807 West Market Street
Louisville, KY 40202
(502) 585-3534

CERTIFICATION

It is hereby certified that a copy of the foregoing was mailed this 8th day of April, 2003, to the Hon. Francis J. Mellen, Jr., Hon. Byron E. Leet and Hon. Pamela J. Ledford, Wyatt, Tarrant & Combs, LLP, 500 W. Jefferson Street, PNC Plaza, Louisville, KY 40202.

/s/ Teddy B. Gordon

TEDDY B. GORDON
Attorney for Plaintiffs

Plaintiff, Crystal D. Meredith, Custodial Parent and Next Friend of Joshua Ryan McDonald, states that she has read the allegations of the foregoing Amended Complaint, and the statements contained herein are true and correct as she verily believes.

/s/ Crystal Meredith

CRYSTAL MEREDITH

SUBSCRIBED AND SWORN to before me by Crystal D. Meredith, Custodial Parent and Next Friend of Joshua Ryan McDonald, Plaintiff on this 3rd day of April, 2003.
My commission expires: September 25, 2004

/s/ Teddy B. Gordon

NOTARY PUBLIC, State at Large, KY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
AT LOUISVILLE

CIVIL ACTION NO. 3:02CV-620-C

DAVID MCFARLAND, Parent and Next Friend of Stephen and Daniel McFarland,

and

RONALD PITTENGER, Parent and Next Friend of Brandon Pittenger

and

ANTHONY UNDERWOOD, Custodial Parent and Next Friend of Max Aubrey

and

CRYSTAL D. MEREDITH, Custodial Parent and Next Friend of Joshua Ryan McDonald

Plaintiffs,

v.

JEFFERSON COUNTY PUBLIC SCHOOLS, JEFFERSON COUNTY BOARD OF EDUCATION, and STEPHEN DAESCHNER,

Defendants.

ANSWER TO THIRD AMENDED COMPLAINT

Defendants Jefferson County Public Schools, Jefferson County Board of Education, and Superintendent Stephen Daeschner (collectively "JCBE"), by counsel, hereby tender their Answer to the Third Amended Complaint and state as follows:

FIRST DEFENSE

1. Defendants incorporate their responses to the original and First and Second Amended Complaints.

2. Defendants deny the allegations contained in Paragraph 2 of the Third Amended Complaint.

3. Defendants deny the allegations contained in Paragraph 3 of the Third Amended Complaint.

4. Defendants deny the allegations contained in Paragraph 4 of the Third Amended Complaint.

5. Defendants deny the allegations contained in Paragraph 5 of the Third Amended Complaint.

6. Defendants deny the allegations contained in Paragraph 6 of the Third Amended Complaint and affirmatively state the referenced document speaks for itself.

7. Defendants deny the allegations contained in Paragraph 7 of the Third Amended Complaint.

8. Defendants deny the allegations contained in Paragraph 8 of the Third Amended Complaint.

9. Defendants deny the allegations contained in Paragraph 9 of the Third Amended Complaint.

10. Defendants deny the allegations contained in Paragraph 10 of the Third Amended Complaint.

11. Defendants deny the allegations contained in Paragraph 11 of the Third Amended Complaint.

12. All allegations of the Third Amended Complaint not specifically admitted or otherwise answered herein are hereby denied.

SECOND DEFENSE

13. The "Jefferson County Public Schools" is not a legal entity capable of being sued in this action.

THIRD DEFENSE

14. The Third Amended Complaint fails to state a claim against these Defendants upon which relief may be granted.

FOURTH DEFENSE

15. Some or all of the claims in the Third Amended Complaint are barred by the Eleventh Amendment to the United States Constitution.

FIFTH DEFENSE

16. Some or all of the claims in the Third Amended Complaint are barred by this Court's ruling in the action styled *Sandra Hampton, et al. v. Jefferson County Board of Education, et al.*, Civil Action No. C:98CV-262-H.

SIXTH DEFENSE

17. Some or all of the claims in the Third Amended Complaint are barred by the doctrine of sovereign immunity and by Kentucky Constitution §231.

SEVENTH DEFENSE

18. Plaintiffs are not entitled to trial by jury on their claims.

EIGHTH DEFENSE

19. Plaintiffs are not entitled to an award of damages of any type on their claims.

NINTH DEFENSE

20. The Third Amended Complaint fails to state a claim against Defendant Stephen Daeschner in his individual capacity.

WHEREFORE, Defendants demand as follows:

A. Judgment dismissing the Complaint and Amended Complaints with prejudice;

B. Their costs herein expended; and

C. Any and all other relief to which they may be entitled.

Respectfully submitted,

/s/ Byron E. Leet

Francis J. Mellen, Jr.
Byron E. Leet
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500 West Jefferson Street
PNC Plaza
Louisville, Kentucky 40202-2898
502.589.5235

Counsel for Jefferson County Board of Education, Jefferson County Public Schools, and Superintendent Stephen Daeschner

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing has been served upon the following, by U.S. mail, on this the 7th day of May, 2003:

Teddy B. Gordon, Esq.
807 West Market Street
Louisville, Kentucky 40202

/s/ Byron E. Leet

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
LOUISVILLE DIVISION

CIVIL ACTION NO. 3:02-CV-620-H

DAVID MCFARLAND, Parent and Next Friend of Stephen and Daniel McFarland, *et al.*,
Plaintiffs,

v.

JEFFERSON COUNTY BOARD OF EDUCATION, et al.,
Defendants.

STIPULATION OF FACTS

The parties, by counsel, submit the attached joint Stipulation of Facts and agree that they will not introduce any evidence inconsistent with the Stipulation of Facts.

HAVE SEEN AND AGREE:

/s/ Teddy B. Gordon

TEDDY B. GORDON
807 West Market Street
Louisville, Kentucky 40202
(502) 585-3534

Counsel for Plaintiffs

/s/ Byron E. Leet

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I. THE PLAINTIFFS

1. David McFarland is parent and next friend of Stephen McFarland. Stephen McFarland resides at 7317 Mayrow Drive, Louisville, Kentucky 40291, in the Newburg Middle School ("Newburg") geographic attendance area. He attended Fern Creek Elementary School for Primary 1 (kindergarten) and Primary 2 (first grade). He attended Audubon Traditional Elementary School for Primary 3 (second grade) and Primary 4 (third grade). He attended a school in Fayette County, Kentucky for fourth grade. He attended Fern Creek Elementary School for fifth grade. On November 1, 2001, he applied for a sixth grade school assignment for the 2002-2003 school year. *See* paragraphs 61 to 78 below for a description of the application process for elementary, middle and high school students. His first choice was Jefferson County Traditional School ("JCTMS"). He did not indicate a second choice. He was not accepted into JCTMS, and he was assigned to Newburg. On May 8, 2002, he applied for a transfer to Myers Middle School ("Myers"), which was granted, and he was enrolled at Myers for the sixth grade. On November 14, 2002, he applied for a seventh grade school assignment for the 2003-2004 school year. His first choice was JCTMS. He did not indicate a second choice. He was accepted into JCTMS. He is currently enrolled in JCTMS for the seventh grade.

2. David McFarland is parent and next friend of Daniel McFarland. Daniel McFarland resides at 7317 Mayrow Drive, Louisville, Kentucky 40291, in the Bates Elementary School ("Bates") geographic attendance area. Bates is in the Price Elementary School Cluster ("Price Cluster"). *See* paragraph 62 below for a description of elementary school clusters. Daniel McFarland attended Fern Creek Elementary School ("Fern Creek"), which is in the Price Cluster, for Primary 1 (kindergarten). On February 19, 2002, he applied for a Primary 2 (first grade) school assignment for the 2002-

2003 school year. For schools in the Price Cluster, his first choice was Fern Creek and his second choice was Luhr Elementary School. For magnet schools, magnet programs and optional programs, his first choice was Schaffner Traditional Elementary School ("Schaffner"), and he did not indicate a second choice. He was not accepted into Schaffner. On April 29, 2002, Maupin Elementary School ("Maupin") sent to David McFarland a letter offering Daniel McFarland possible placement for the 2002-2003 school year in the Traditional School program at Maupin. A copy of this letter is attached as *Exhibit 1*. David McFarland did not accept this offer, and Daniel McFarland was assigned to Fern Creek, where he was enrolled for the first grade. On February 29, 2003, he applied for a Primary 3 (second grade) school assignment for the 2003-2004 school year. His first choice was Schaffner. He did not indicate a second choice. He was accepted into Schaffner. He is currently enrolled in Schaffner for the second grade.

3. Ronald Pittenger is parent and next friend of Brandon Pittenger. Brandon Pittenger resides at 8401 Cedar Creek, Louisville, Kentucky 40291, in the Newburg geographic attendance area. He attended Bates for Primary 1 (kindergarten) through fifth grade. On November 1, 2001, he applied for a sixth grade school assignment for the 2002—2003 school year. His first choice was JCTMS. His second choice was the Math, Science, Technology Magnet Program at Newburg ("Newburg MST program"). He was not accepted into JCTMS. His second choice application to the Newburg MST program was not processed, because that program accepts students only from first choice applications. (*See* the instructions on the middle and high school application form for magnet schools, magnet programs and optional programs (Exhibit 48)). He enrolled in Evangel Christian School for the sixth grade. He is currently enrolled in Evangel Christian School for the seventh grade.

4. Anthony Underwood is parent and next friend of Kenneth Maxwell ("Max") Aubrey. Max Aubrey resides at 6404 By Way Lane, Louisville, Kentucky 40218, in the Newburg geographic attendance area. He attended Tully Elementary School for Primary 1 (kindergarten) through Primary 3 (second grade). He was not enrolled in the Jefferson County Public Schools for Primary 4 (third grade). He attended Jeffersontown Elementary School for fourth grade. He attended Cochrane Elementary School for fifth grade. On December 27, 2001, he applied for a sixth grade school assignment for the 2002-2003 school year. His first choice was JCTMS. He did not indicate a second choice. He was not accepted into JCTMS and he was assigned to Newburg. On May 5, 2002, he applied for a transfer to Myers, which was granted, and he was enrolled in Myers for the sixth grade. He did not apply for a seventh grade school assignment for the 2003—2004 school year. He is currently enrolled in Myers for the seventh grade.

5. Crystal Meredith is parent and next friend of Joshua McDonald. Joshua McDonald resides at 1025 Caldwell Street, Louisville, Kentucky 40204, in the Breckinridge-Franklin Elementary School ("BFES") geographic attendance area. BFES is in the Young Elementary School cluster ("Young Cluster"). Joshua McDonald did not submit an application in the early months of 2002 to indicate his choice for enrollment in Primary 1 (kindergarten) for the 2002-2003 school year. In August 2002, Crystal Meredith requested that Joshua McDonald be enrolled in kindergarten at BFES for the 2002-2003 school year. Because BFES is a "year-round" school which had already commenced the school year in July 2002, and BFES had no available space for late enrollees, BFES could not enroll him. He was assigned to Young Elementary School ("Young"), which is the "head of cluster" school for the Young Cluster, where he was enrolled for kindergarten. On August 9, 2002, he applied for a transfer to Bloom Elementary School, which is not in the Young Cluster.

The transfer application was denied because the transfer would have had an adverse effect on the compliance of Young with the racial guidelines contained in the student assignment plan described in paragraph 134 of this Stipulation. Crystal Meredith did not appeal the denial of transfer. He did not submit an application in the early months of 2003 to indicate his choice for enrollment in Primary 2 (first grade) for the 2003-2004 school year. He currently attends Young for the first grade.

II. THE DEFENDANTS

6. Defendant, Jefferson County Board of Education (the "Board"), manages and controls the public schools in the Jefferson County Public School District (the "District"). The Board is a body politic and corporate which is organized and exists pursuant to KRS 160.160. The Board has the powers and duties stated in KRS 160.290 and other applicable statutes. Copies of KRS 160.160 and 160.290 are attached as *Exhibit 2* and *Exhibit 3*.

7. Defendant, Stephen Daeschner, is the Superintendent of the District. Under KRS 160.370, the Superintendent is the executive officer of the Board and has general supervision, subject to the control of the Board, of the general conduct of the schools in the District, the course of instruction, the discipline of pupils and the management of business affairs. A copy of KRS 160.370 is attached as *Exhibit 4*.

III. THE JEFFERSON COUNTY PUBLIC SCHOOLS

A. Board Goals.

8. Under state law, the Board is required to submit to the Kentucky Department of Education ("KDE") a biennial consolidated plan, as a condition to the receipt of various state and federal grants administered by the KDE. The consolidated plan includes a statement of the Board's overarching goals for the Jefferson County Public Schools ("JCPS").

Since 1984, the Board's goals have included the education of all JCPS students in a racially integrated environment. The current Board goals, which were adopted in June and November 1998, are as follows:

> [1] All JCPS students will become critical thinkers and lifelong learners who are academically prepared in a racially integrated environment to be successful in the post-secondary education programs or careers of their choice.
>
> [2] All JCPS students will be safe, supported, respected, and confident in racially integrated schools, classrooms, and student activities.
>
> [3] All JCPS parents and community members will be urged and welcomed to actively participate in the education of our students.
>
> [4] All JCPS employees will contribute to and be accountable for the success of our students through higher levels of performance in supportive work environments.

Copies of the Board resolutions adopting the 1984 Board goals and the current Board goals are attached collectively as *Exhibit 5*.

B. Schools and Programs

9. JCPS distributes each year a publication titled "A Guide to the Jefferson County Public Schools," which contains information about JCPS schools and programs. A copy of the current Guide to the Jefferson County Public Schools is attached as *Exhibit 6*.

10. JCPS offers preschool education for children four years old and younger through several programs, including Head Start/Early Head Start, KERA Prekindergarten, the Three-Year-Old Program, Tuition-Based Preschool, Child

Care, Early Childhood Special Services, and Family Education/Even Start. *See* page 8 of Exhibit 6.

11. JCPS offers education for students from grade Primary 1 (kindergarten) through grade five in its 87 elementary schools. *See* pages 9-24 of Exhibit 6.

12. JCPS offers education for students from the sixth grade through the eighth grade in its 23 middle schools. *See* pages 25-30 of Exhibit 6.

13. JCPS offers education for students from the ninth grade through the twelfth grade in its 20 high schools. *See* pages 31-38 of Exhibit 6.

14. The school numbers listed in paragraphs 11 to 13 do not include the Brown School ("Brown"), at which JCPS offers education for students from Primary 1 (kindergarten) through the twelfth grade in one building. Brown is the only JCPS school which contains all grade levels in one building. *See* pages 23, 26 and 33 of Exhibit 6. With some exceptions, the data in this Stipulation concerning JCPS elementary, middle and high schools count the kindergarten through fifth grade of Brown as a separate elementary school, the sixth through eighth grade of Brown as a separate middle school, and the ninth through twelfth grade of Brown as a separate high school.

15. The high school numbers listed in paragraph 13 do not include the Youth Performing Arts School ("YPAS"), a JCPS high school which is located on the campus of dupont Manual High School ("Manual"). Students at YPAS receive training in the performing arts, and also take classes in academic areas at Manual. *See* page 37 of Exhibit 6. For purposes of this Stipulation, YPAS is counted together with Manual as a single high school.

16. In addition to the schools described in paragraphs 10 to 15, JCPS operates alternative schools and special education

centers. The alternative schools provide an alternative learning environment for students who have demonstrated inappropriate behavior at school, students who have not had academic success in high school, and pregnant and parenting students. *See* page 39 of Exhibit 6. The special education centers provide a learning environment for students identified with disabilities and who cannot be served at a regular school. In addition, JCPS supplies teachers for on-site instruction of students at various state and private facilities which serve disabled and other children.

17. A map of Jefferson County which shows the locations of the 87 elementary schools and Brown is attached as *Exhibit 7.*

18. A map of Jefferson County which shows the locations of the 23 middle schools and Brown is attached as *Exhibit 8.*

19. A map of Jefferson County which shows the locations of the 20 high schools and Brown is attached as *Exhibit 9.*

20. A map of Jefferson County which shows the locations of the alternative schools, the special education centers and the principal facilities at which JCPS provides on-site instruction is attached as *Exhibit 10.*

21. JCPS prepares each year a publication titled "School Profiles" which contains various data about each of the JCPS elementary, middle and high schools, including programs offered at the school, enrollment, instructional staff, student demographics and achievement, and budget data. A copy of the 2002-2003 School Profiles is attached as *Exhibit 11.*

22. JCPS prepares each year three publications titled "Elementary Schools Data Book," "Middle Schools Data Book" and "High Schools Data Book." These publications contain various data about each of the JCPS elementary, middle and high schools and also various aggregated data about all JCPS schools at each level. Copies of the 2002-

2003 Data Books for elementary schools, middle schools and high schools are attached as *Exhibit 12*, *Exhibit 13* and *Exhibit 14*.

23. JCPS offers several instructional programs at the elementary schools, middle schools and high schools. The Comprehensive Program is the main instructional program. The Advance Program provides a curriculum for gifted or talented students. The Honors Program provides intensive academic preparation for students in Comprehensive Program middle and high schools. The Exceptional Child Education ("ECE") program offers services to students with identified disabilities. *See* page 4 of Exhibit 6 for a brief description of these programs. *See* the applicable pages for each school in Exhibit 11 for a list of the programs offered at each school.

24. Each JCPS school building has a program capacity, which is the number of students that the building can accommodate, consistent with the programs offered to students in that building. *See* the applicable pages for each school in Exhibit 11 for the program capacity of each school.

C. Funding of Schools and Programs

25. The Board receives education funds from state taxes, local taxes, federal aid, grants, partnerships with corporations and other entities, donations and fees. The Board spends these funds for educational purposes within the District as needed.

26. A table which shows the sources of the District's total funds and the principal categories of the District's educational expenditures for the most recent (2002-2003) Board fiscal year is attached as *Exhibit 15*.

27. A table which shows the budgeted allocation of the District's funds to JCPS schools for the most recent (2002-2003) Board fiscal year, and a copy of the JCPS 2002-2003 School Allocation Formula handbook, which contains the

formula and instructions for the budgeted allocations, are attached collectively as *Exhibit 16*. A table which shows the per-pupil expenditure at each JCPS school is attached as *Exhibit 17*. The per-pupil expenditure is calculated by dividing the school's average daily attendance for the fiscal year into the actual dollars spent by the District at the school during the fiscal year. For purposes of this calculation, the dollars spent at the school include actual salaries of staff, categorical programs in the school, ECE programs, and English as a Second Language programs. The dollars spent at the school do not include the costs of certain central office services provided to schools by JCPS, including but not limited to transportation, computer/technology services, district wide staff development, magnet and optional programs, substitute teachers, testing, payroll, purchasing, summer school and early childhood instruction.

D. School-Based Decision Making Councils

28. KRS 160.345 requires each public school, with certain exceptions including alternative schools and special education centers, to form a school-based decision making council ("SBDM council") composed of parents, teachers and the principal or administrator. All JCPS schools which are subject to this requirement, with the exception of Butler High School ("Butler"), have formed an SBDM council. *See* the applicable pages of Exhibit 11 for the composition of the SBDM council at each JCPS school. KRS 160.345 provides that each SBDM council has authority to determine which textbooks, instructional materials and student support services shall be provided in its school. KRS 160.345 further provides that each SBDM council must adopt policies to govern various aspects of its school, including the following:

a. Determination of curriculum including needs assessment and curriculum development.

b. Assignment of all instructional and non-instructional staff time.

c. Assignment of students to classes and programs within the school.

d. Determination of the schedule of the school day and week, subject to the beginning and ending times of the school day and school calendar year as established by the local board.

e. Determination of use of school space during the day.

f. Planning and resolution of issues regarding instructional practices.

g. Selection and implementation of discipline and classroom management techniques as a part of the comprehensive school safety plan, including responsibilities of the student, parent, teacher, counselor and principal.

h. Selection of extracurricular programs and determination of policies relating to student participation based on academic qualifications and attendance requirements, program evaluation and supervision.

i. Procedures consistent with local school board policy, for determining alignment with state standards, technology utilization, and program appraisal.

A copy of KRS 160.345 is attached as *Exhibit 18.*

E. School Staff

29. Each JCPS school is supervised by a principal. The minimum qualifications for employment as a principal by JCPS are a master's degree with Kentucky certification in administration and supervision; a principalship certificate; three years of successful teaching experience in public schools; and satisfactory performance in the application process, including interviews, record of job history and perform-

ance, and job references. JCPS maintains a current list of persons who possess the qualifications for employment as a principal, and have been screened by the JCPS human resources staff. When a school has a vacancy in the principal's position, JCPS reviews this list for potential applicants for the vacancy. JCPS also publishes a notice of the vacancy, and qualified applicants for the position who are not on the current JCPS list can submit applications to the Superintendent. As provided in KRS 160.345(2)(h), the principal at each school which has formed an SBDM council is appointed by the SBDM council, from a list of applicants recommended by the Superintendent. *See* Exhibit 18. The principal at a school which has not formed an SBDM council (in the case of JCPS, only Butler and the alternative schools and special education centers) is appointed by the Superintendent.

30. JCPS employs about 6,200 persons as teachers for the 2003-2004 school year. The minimum qualifications for employment as a teacher by JCPS are Kentucky certification appropriate to the grade level and curricular assignment, and the level of experience and preparation required by the Board. As provided in KRS 160.345 (2)(h), teachers are hired by the principal of each school, after consultation with the SBDM council, from a list of qualified applicants submitted to the principal by the Superintendent. As provided in KRS 160.345 (2)(h), teachers may request a transfer to another JCPS school in accordance with the collective bargaining agreement between the Board and the Jefferson County Teachers Association ("JCTA"). A copy of the current JCTA collective bargaining agreement is attached as *Exhibit 19*.

31. The budgeted funds for teacher salaries that are allocated to each school in the District's budget for each fiscal year are determined by the Superintendent, using a formula which estimates the number of teachers that will be required at the school based on the number of students projected to attend the school and other relevant data. *See* Exhibit 16.

However, under KRS 160.345 (2)(h) and (i), each SBDM council can decide either to reduce the number of teachers at the school and apply budgeted teacher salary funds to other purposes, or to hire additional teachers and use other budgeted funds to pay their salaries.

32. The applicable pages of Exhibit 11 show the number of teachers employed at each JCPS school and their professional degrees. A table which shows the percentage of courses taught at each JCPS middle and high school by teachers with a college major or minor in that subject is attached as *Exhibit 20.*

33. In addition to a principal and teachers, most JCPS schools have other administrative and/or instructional staff, including assistant principals, guidance counselors and librarians. These employees are hired by the principal of each school, after consultation with the SBDM council. *See* the applicable pages of Exhibit 11 for the other administrative and instructional staff employed at each JCPS school.

F. Students

34. About 97,000 students are enrolled in the JCPS for the 2003-2004 school year. Of these students, about 5,000 are enrolled in preschool programs; about 42,500 are enrolled in elementary schools; about 21,650 are enrolled in middle schools; about 24,750 are enrolled in high schools; about 2,100 are enrolled in alternative schools; and about 1,000 are enrolled in special schools and special education centers.

35. For purposes of the JCPS student assignment plan described in paragraph 134 of this Stipulation, JCPS records the race of students as Black (African-American) and Other (all students who are not African-American). The student assignment plan does not apply to the preschool students described in paragraph 34, to students in Primary 1 (kindergarten), to students who are enrolled in an elementary, middle or high school but attend classes in a self-contained special

education unit within the building, and to students in alternative schools and special education centers.

36. Of the elementary students described in paragraph 34 who are subject to the student assignment plan (*i.e.*, excluding the categories described in paragraph 35), 12,192 (36%) are Black and 22,086 (64%) are Other. Of the middle school students described in paragraph 34 who are subject to the student assignment plan, 7,418 (36%) are Black and 12,998 (64%) are Other. Of the high school students described in paragraph 34 who are subject to the student assignment plan, 7,640 (31%) are Black and 17,145 (69%) are Other. Of all students enrolled in JCPS elementary, middle and high schools who are subject to the student assignment plan, 27,250 (34%) are Black and 52,229 (66%) are Other. *See* copy of JCPS report attached as *Exhibit 21*. *See* the applicable pages of Exhibit 11 for data concerning the percentages of Black and Other students at each JCPS school.

37. Under federal regulations, students from families whose total household income is below a defined threshold are eligible to receive a free or reduced price lunch ("FRL"). Participation in the FRL program is voluntary. Of all students who were enrolled in JCPS during the 2002-2003 school year and were subject to the student assignment plan, 49.4% participated in the FRL program at JCPS. By grade level, the percentages of such students who participated in the FRL program were as follows: elementary, 57.3%; middle, 52%; high school, 35.7%. Of all such Black students enrolled in JCPS at all grade levels, 76.5% participated in the FRL program. Of all such Other students enrolled in JCPS at all grade levels, 35.4% participated in the FRL program. *See* copy of JCPS report attached as *Exhibit 22*.

38. Each year, JCPS conducts a comprehensive survey of students, parents and school staff. Copies of the survey questionnaire forms for the 2002-2003 survey and summaries

of the results of the 2002-2003 survey for elementary, middle and high schools are attached collectively as *Exhibit 23.*

39. JCPS collects various data which reflects the involvement of parents and other volunteers at JCPS schools. JCPS believes that the most reliable data regarding parental involvement at each school is the level of voluntary attendance by parents and guardians at the two teacher-parent conference days held each year at each JCPS school. A table which shows the ratio of conferences to students for the 2002-2003 school year at each JCPS school is attached as *Exhibit 24.*

G. Curriculum

40. KRS 158.645, which is part of the Kentucky Education Reform Act of 1990, as amended ("KERA"), provides that it is the intent of the Kentucky General Assembly to create a system of public education which shall allow and assist all students to acquire eight capacities, which are listed in the statute. A copy of KRS 158.645 is attached as *Exhibit 25.*

41. KRS 158.6451, which is part of KERA, states the Kentucky General Assembly's goals for Kentucky public schools. KRS 158.6451 further provides that the Kentucky Department of Education ("KDE") shall disseminate to local school districts and schools a model curriculum framework which is directly tied to the goals, outcomes and assessment strategies developed under KRS 158.645, 158.6451 and 158.6453. KRS 158.6451 further provides that the model curriculum framework shall provide direction to local school districts and schools as they develop their curriculum. A copy of KRS 158.6451 is attached as *Exhibit 26.*

42. KRS 158.6453, which is part of KERA, provides that KDE shall create and implement a statewide assessment program for elementary and secondary school students known as the Commonwealth Accountability Testing System ("CATS"). KRS 158.6453 further provides that the CATS

assessments shall measure core academic content, basic skills, and higher-order thinking skills and their application. A copy of KRS 158.6453 is attached as *Exhibit 27.*

43. To implement KRS 158.6451 and 158.6453, KDE has published and distributed to local school districts various documents including Kentucky's Learning Goals and Academic Expectations (the "Goals and Expectations"), which all Kentucky students are expected to achieve; the Program of Studies for Kentucky Schools, Primary-12 (the "Program of Studies"), which is intended to insure that students in all Kentucky public schools are provided with a coordinated curriculum, so that all students have the opportunity to succeed in meeting the Goals and Expectations; the Implementation Manual for the Program of Studies, which provides information on implementing educational programs and designing courses using the content from the Program of Studies; the Core Content for Assessment (the "Core Content"), which states the content that is essential for all students to know and will be included on the CATS assessments; and the Student Performance Standards, which define the standards for determining when a student has performed at the "novice," "apprentice," "proficient" or "distinguished" level on CATS assessments. A copy of the Learning Goals and a summary of the other KDE curriculum documents published on KDE's website is attached as *Exhibit 28.*

44. JCPS has prepared numerous Core Content Guides which are based on the Goals and Expectations, the Program of Studies and the Core Content. The Core Content Guides contain the curriculum, teaching strategies, instructional resources and teaching sequences for each content area that is tested on the CATS assessments at each grade level within JCPS. The purpose of the Core Content Guides is to enable JCPS teachers and students to meet the goals established by KERA, including successful performance on the CATS assessments. The Core Content Guides are distributed by JCPS

to each school in the District, for use by all teachers in the District. As examples, the Core Content Guides for Reading and Writing at the elementary school level are attached as *Exhibit 29*, the Core Content Guides for Language Arts and Reading at the middle school level are attached as *Exhibit 30*, and the Core Content Guides for Mathematics at the high school level are attached as *Exhibit 31*.

H. Progression, Promotion and Grading

45. JCPS has prepared three Student Progression, Promotion and Grading ("SPPG") handbooks, one each for elementary schools, middle schools and high schools. The SPPG handbooks state the criteria for grading, progression and promotion within JCPS as reflected in KERA. The appropriate SPPG handbook is distributed by JCPS to each school in the District, for use by all teachers in the school. As an example, a copy of the current SPPG handbook for elementary schools is attached as *Exhibit 32*.

I. Student Achievement

46. The CATS assessment program developed by KDE includes the Kentucky Core Content Test (the "KCCT"), the Comprehensive Test of Basic Skills ("CTBS"), writing portfolios and writing on-demand prompts, and alternate portfolios for students with severe or profound disabilities. The CATS assessment program also includes a Nonacademic Index which measures attendance and retention at the elementary school level; attendance, retention and dropout rates at the middle school level; and attendance, retention, dropout rates and successful transition to adult life at the high school level. *See* copy of a summary of the CATS assessment program published on KDE's website, attached as *Exhibit 33*.

47. Public school students in Kentucky take the KCCT in the spring of each year, at the end of the fourth, fifth, seventh, eighth, tenth and eleventh grades. Reading is tested during the fourth, seventh and tenth grades. Writing is tested during

the fourth, seventh and twelfth grades. Science is tested during the fourth, seventh and eleventh grades. Mathematics, social studies and arts & humanities are tested during the fifth, eighth and eleventh grades. Practical Living/Vocational Studies is tested during the fifth and eighth grades. *See* Exhibit 33.

48. Public school students in Kentucky take the CTBS in the spring of each year, at the end of the Primary 4 (third grade), sixth and ninth grade levels. The CTBS is a national norm referenced test, which allows comparison between the performance of Kentucky students and students in other states. *See* Exhibit 33.

49. The results of the KCCT academic index and the CATS accountability score from 1999 to 2003 for each JCPS school are listed in the attached *Exhibit 34*. The scores reported for each school include the scores of students in self-contained special education units in the school. The scores reported for each school may include the scores of some students not enrolled in the school. Under KDE regulations, the score of a student attending an alternative school or special education center is reported under the name of either (a) the last school attended by that student before his or her assignment to the alternative school or special education center, or (b) the student's resides school.

50. The results of the CTBS total battery from 1997 to 2003 for each JCPS school are listed in the attached *Exhibit 35*. The scores reported for each school include the scores of students in self-contained special education units in the school. The scores reported for each school may include the scores of some students not enrolled in the school. Under KDE regulations, the score of a student attending an alternative school or special education center is reported under the name of either (a) the last school attended by that student before his or her assignment to the alternative school or special education center, or (b) the student's resides school.

51. The scores of each JCPS elementary, middle and high school, excluding alternative schools and special education centers, for attendance, retention and dropout rates from 1999 through 2002 are listed in the attached *Exhibit 36*. The 2002 scores of each JCPS high school for successful transition to adult life are listed in the attached *Exhibit 37*. The scores reported for each high school on Exhibit 37 include the scores of students in self-contained special education units in the school. The scores reported for each high school on Exhibit 37 may include the scores of some students who did not graduate from the school. Under KDE regulations, the score of a student graduating from an alternative school or special education center is reported on Exhibit 37 under the name of either (a) the last school attended by that student before his or her assignment to the alternative school or special education center, or (b) the student's resides school.

52. Under KERA and regulations adopted by the KDE, each school in Kentucky has a CATS assessment baseline, a two-year CATS goal, an accountability index, a combined growth index, and a classification based on the school's progress in meeting its current two-year CATS goal. *See* pages 1 and 2 of Exhibit 11 for the definitions of these terms. *See* the applicable pages of Exhibit 11 for data concerning each JCPS school's progress in meeting its current two-year CATS goal.

53. KRS 158.649, which is part of KERA, defines the term "achievement gap" as a substantive performance difference on CATS assessments between groups of students, including male and female students, students with and without disabilities, students with and without English proficiency, minority and nonminority students, and students who are and are not eligible for FRL. KRS 158.649 provides that local boards of education and SBDM councils shall identify achievement gaps and set biennial targets for eliminating them. A copy of KRS 158.649 is attached as *Exhibit 38*.

54. JCPS has identified achievement gaps under KRS 158.649, including an achievement gap at some JCPS schools between Black and Other students, and between FRL students and non-FRL students. A copy of a JCPS report which contains data regarding achievement gaps between Black and Other students, and between FRL students and non-FRL students, at JCPS schools (excluding alternative schools, special education centers and students in self-contained special education units) on the 2003 CATS assessments is attached as *Exhibit 39*.

J. Discipline; Suspensions

55. KRS 158.148(4), which is part of KERA, provides that each local board of education shall formulate a code of acceptable behavior and discipline to apply to the students in each school operated by the board. A copy of KRS 158.148(4) is attached as *Exhibit 40*.

56. To implement KRS 158.148 (4) within JCPS, the Board has adopted a Code of Acceptable Behavior and Discipline (the "Code") which applies to all JCPS schools and students. The Code is distributed to each student in JCPS. A copy of the Code is attached as *Exhibit 41*.

57. The responsibility for implementing the Code within each school, as well as the responsibility for determining disciplinary and classroom management techniques as part of a school safety plan, is assigned by KERA to each school's SBDM council. *See* KRS 160.345 (2)(i)(7).

58. The disciplinary authority assigned to SBDM councils includes the authority to require students to comply with a restrictive dress code or wear uniforms. For the 2003-2004 school year, students are required to comply with a restrictive dress code at five of the 20 JCPS high schools, two of the 23 JCPS middle schools and nine of the 87 JCPS elementary schools. For the 2003-2004 school year, students are required to wear uniforms at nine of the 20 JCPS high schools, 20 of

the 23 JCPS middle schools and 62 of the 87 JCPS elementary schools. Brown does not require a restrictive dress code or uniforms. A chart which lists the dress code or uniform requirements at each JCPS elementary, middle and high school is attached as *Exhibit 42*.

59. The Board has adopted a Student Bill of Rights, which defines the rights and responsibilities of JCPS students. The Student Bill of Rights is included in Exhibit 41.

60. Exhibit 11 contains data about attendance, absences, suspensions and mobility at each JCPS school.

K. Student Assignment

61. Each JCPS school, except for 13 elementary, middle and high schools, and the Brown, which have been designated by the Board as magnet schools, has a designated geographic attendance area, which is called the "resides area" of the school. Each such school is the "resides school" for those students whose parent's or guardian's residence address is within the school's geographic attendance area.

62. JCPS elementary schools, with the exception of the five elementary magnet schools, and the Brown elementary school, are grouped into 12 elementary school clusters. All of the elementary schools that are in the elementary school cluster that includes a student's resides school are "cluster resides schools" for that student. Each elementary school cluster is named after one or two of the schools within the cluster, which is called the "head of cluster" school. For example, King Elementary School is the head of cluster school for the King Cluster. *See* pages 11 to 22 of Exhibit 6 for descriptions of the 12 elementary school clusters. Copies of 12 maps which show the locations of the schools within each of the elementary school clusters are attached as *Exhibit 43*.

63. There are no selection criteria for admission of an elementary school student into an elementary school in his or her elementary school cluster, other than age and residence in the geographic attendance area of one of the schools in the cluster. There are no selection criteria for admission of a middle school student into his or her resides middle school, other than graduation from an elementary school and residence in the resides middle school's geographic attendance area. There are no selection criteria for admission of a high school student into his or her resides high school, other than graduation from a middle school and residence in the resides high school's geographic attendance area.

64. Beginning in February of each year, the parents of students who will enter Primary 1 (kindergarten) in the Fall, the parents of students who will enter Primary 2 (first grade) in the Fall, and the parents of elementary students who are new to the District, are asked to submit an application in which they can indicate a first choice and a second choice among the student's cluster resides schools. The deadline for elementary school cluster applications is March 1. A copy of the elementary school application form, which includes the elementary school cluster application, is attached as *Exhibit 44*.

65. The elementary school cluster applications described in paragraph 64 are processed and assignment decisions are made by the District's Director of Elementary Student Assignment and the principals of the schools within each cluster. Assignment decisions are also made for students who failed to submit an elementary school cluster application. Decisions to assign students to schools within each cluster are based on available space within the schools and the racial guidelines in the District's current student assignment plan. Typically, parents are notified of their child's school assignment for the next school year by May 1.

66. Parents and students can make the choice to submit an application for admission to an elementary school other than one of the student's cluster resides schools, and to a middle or high school other than the student's resides school. The applications that can be submitted are: an application for admission to a magnet school; an application for admission to a school other than the student's resides school that offers magnet programs or optional programs; and a high school open enrollment application. With the exception of high school open enrollment applications, these applications can be submitted by students in any grade from Primary 1 (kindergarten) through twelfth grade. A high school open enrollment application can only be submitted for ninth grade admission.

67. Parents and students can also make the choice not to submit any of the applications described in paragraph 66. In that case, if the student is an elementary school student, he or she will be assigned to one of his or her cluster resides schools, under the application process described in paragraphs 64 and 65. If the student is a middle or high school student, he or she will be assigned to attend his or her resides school. *See* pages 5-7 of Exhibit 12, page 4 of Exhibit 13 and page 5 of Exhibit 14 for data regarding the number of the resides students at each JCPS school who attend that school and the number who attend other JCPS schools. A student who is assigned to his or her resides school because the student did not submit one of the applications described in paragraph 66 will not be enrolled in any magnet or optional programs offered at that school.

68. The District's magnet schools, magnet programs, optional programs and high school open enrollment are described in detail in a booklet which is attached as *Exhibit 45*. JCPS prints this booklet each year and distributes it to all eighth graders, to elementary counselors for use with parents of fifth graders, and in packets for newcomers to the District.

69. Magnet schools feature unique, school-wide curricula that are determined by the Board when a school is designated as a magnet school. Students are admitted to magnet schools only by application. Therefore, a magnet school is not a resides school for any student. The Board has designated four high schools, three middle schools and five elementary schools, and the Brown, as magnet schools. *See* pages 23-24, 25 and 31-32 of Exhibit 6. A map which shows the locations of the magnet schools is attached as *Exhibit 46*.

70. Magnet programs are specialized programs placed within a resides school by the Board. Students are admitted to magnet programs only by application. The Board has created magnet programs (other than the magnet programs at the magnet career academies, described below) at four resides high schools, six resides middle schools and eight resides elementary schools. *See* pages 23-24, 25 and 31 of Exhibit 6. Typically, the majority of students enrolled in a high school or middle school with a magnet program are students who reside within the school's designated geographic attendance area. Typically, the majority of students enrolled in an elementary school with a magnet program are students who reside within the geographic attendance area of one of the schools in that school's cluster.

71. Magnet career academies are high schools which contain magnet programs in which students can focus on a specific technical career while still being prepared to pursue a post-secondary education in a college, university or technical school. Students are admitted to the magnet program at a magnet career academy only by application. The Board has designated 13 resides high schools, plus Central High School ("Central"), as magnet career academies. *See* page 32 of Exhibit 6. Typically, except in the case of Central, the majority of students enrolled in a magnet career academy are students from the school's designated geographic attendance area. Because Central is a magnet high school which does

not have a designated geographic attendance area, students are admitted to Central only by application.

72. Optional programs are small, specialized programs with unique characteristics, developed by local school staffs and approved by the Board. Students are admitted to an optional program only by application. The Board has created optional programs at 13 resides high schools, five resides middle schools and two resides elementary schools. *See* pages 23-24, 25 and 32 of Exhibit 6. Typically, the majority of students enrolled in a high school or middle school with an optional program are students from the school's designated geographic attendance area. Typically, the majority of students enrolled in an elementary school with an optional program are students who reside within the geographic attendance area of one of the schools in that school's cluster.

73. JCPS offers open enrollment to all incoming ninth graders who wish to apply to any high school other than their resides school, except the five magnet high schools (Brown, Central, Manual, Butler and Louisville Male High School ("Male")). *See* page 32 of Exhibit 6. The applicant must agree to a four-year placement at the school. When a student is enrolled in a high school under ninth grade open enrollment, that high school is thereafter considered to be the student's resides school.

74. The process for submitting the applications described in paragraph 66 begins in October of each year. During October, the Board hosts the "Showcase of Schools" at the Kentucky International Convention Center or similar location to give parents and students an opportunity to learn more about JCPS and the programs that are available in JCPS schools. *See* copy of news story from the JCPS publication Parent Connection attached as *Exhibit 47*.

75. Middle and high school students who wish to submit one of the applications described in paragraph 66 can begin

applying for their first and second choice schools in November. A copy of the middle and high school application form is attached as *Exhibit 48*. The deadline for middle and high school applications is mid-January.

76. When the elementary school cluster applications described in paragraph 64 are submitted, elementary school students can also use the elementary school application form (Exhibit 44) to request assignment to an elementary magnet school, or to a school other than the student's resides school that offers a magnet program or an optional program. Unlike the elementary school cluster applications described in paragraph 64, which are submitted by students who are entering Primary 1 (kindergarten) and Primary 2 (first grade), applications for admission to an elementary magnet school, magnet program or optional program can be submitted by students at any grade level within elementary school.

77. After all applications described in paragraph 75 and 76 have been submitted, the applications are processed by the District's Optional, Magnet and Advance Program Office and assignment decisions are made by school principals. Decisions to admit or not admit a student to a magnet school or magnet or optional program are based upon the following: (1) any objective criteria established by the school or program, such as a survey and/or essay, recommendations by adults, a work sample or audition, attendance data, course grades, and CATS and/or standardized test scores; (2) available space in the school or program; (3) for students applying to Brown, a middle school MST program, or one of the Traditional Program magnet schools listed in paragraph 96, position on a computer-generated random draw list, (4) for students applying to Brown, residence within a ZIP code that will make the student body representative of the entire county; and (5) for students in grades other than Primary 1 (kindergarten) and for schools other than Brandeis Elementary School, Brown, Central and Manual, the racial guidelines

in the District's current student assignment plan. Typically, parents are notified of their child's school assignment for the next school year by May 1.

78. After school assignments have been made as described in paragraphs 64 through 77, students may apply for a transfer to a school other than their assigned school, except a magnet school, a magnet program or an optional program. Transfer applications can be submitted for any valid reason, including day care arrangements, medical criteria, family hardship, student adjustment problems, and program offerings. Transfer applications can be denied because of lack of available space or, for students in grades other than Primary 1 (kindergarten), the racial guidelines in the District's current student assignment plan. A copy of the transfer application form, which includes the District's policies regarding transfer applications, is attached as *Exhibit 49*.

80. During the application process for the 2003-2004 school year, JCPS received applications for admission to a magnet school, magnet program or optional program (not including open enrollment applications and transfer applications) as follows: 3,662 applications for admission to a high school; 2,925 applications for admission to middle school; and 2,687 applications for admission to an elementary school. *See* copy of JCPS report attached as *Exhibit 50*.

81. During the application process for the 2003-2004 school year, JCPS received 1,208 applications for admission to a high school other than the student's resides school under ninth grade open enrollment. *See* copy of JCPS report attached as *Exhibit 51*.

82. During the application process for the 2002-2003 school year, and throughout the remainder of that school year, JCPS received 3,284 applications for transfer to another elementary school, 1,423 applications for transfer to another

middle school, and 1,478 applications for transfer to another high school. *See* copy of JCPS report attached as *Exhibit 52*.

82. Of the 3,662 high school students who submitted magnet or option applications (not including open enrollment applications and transfer applications) for admission to a high school, 1,792 students were accepted by their first choice school and 254 students were accepted by their second choice school. *See* Exhibit 50.

83. Of the 2,925 middle school students who submitted magnet or option applications (not including transfer applications) for admission to a middle school, 1,418 students were accepted by their first choice school and 125 students were accepted by their second choice school. *See* Exhibit 50.

84. Of the 2,687 elementary school students who submitted magnet or option applications (not including transfer applications) for admission to an elementary school, 942 students were accepted by their first choice school and 57 students were accepted by their second choice school. *See* Exhibit 50.

85. Of the 1,208 students who submitted ninth grade open enrollment applications, 335 students were accepted by the school to which they applied. *See* Exhibit 51.

86. Of the 3,284 elementary school students who submitted transfer applications during the 2002-2003 school year, 2,447 students were granted a transfer. The total number of elementary school students attending a school other than their resides school on a transfer as of December 2, 2002, including students who had been granted a transfer in previous years, was 4,033 students. *See* Exhibit 52.

87. Of the 1,423 middle school students who submitted transfer applications during the 2002-2003 school year, 776 students were granted a transfer. The total number of middle school students attending a school other than their resides

school on a transfer as of December 2, 2002, including students who had been granted a transfer in previous years, was 976 students. *See* Exhibit 52.

88. Of the 1,478 high school students who submitted transfer applications during the 2002-2003 school year, 838 students were granted a transfer. The total number of high school students attending a school other than their resides school on a transfer as of December 2, 2002, including students who had been granted a transfer in previous years, was 1,419 students. *See* Exhibit 52.

89. For the 2002-2003 school year, there were 12,313 high school students who were assigned to their resides high school; 14,612 middle school students who were assigned to their resides middle school; and 24,205 elementary school students who were assigned to their resides elementary school. *See* copy of JCPS report attached as *Exhibit 53.*

90. The application process described in paragraphs 64 to 65 and 75 to 76 does not apply to the alternative schools and special education centers described in paragraph 16, or to self-contained special education units. Generally, students are assigned or referred to those schools or units on an individual basis because of their educational needs, behavior or personal circumstances. For the 2003-2004 school year, about 2,100 students are enrolled in the alternative schools and about 1,000 students are enrolled in special education centers and self-contained special education units.

91. A student who is accepted into a JCPS school, either because it is his or her resides school or because he or she submitted one of the applications described in paragraph 66 which was granted, or a transfer application described in paragraph 78 which was granted, will be enrolled in that school when the school year begins. Upon successful completion of the academic program for that school year and subsequent years, the student will be promoted to the next

grade in the same school for the following school year, without the need to submit any subsequent applications to attend that school, until the student graduates from the school.

92. A student can be involuntarily exited from his or her resides middle or high school for certain violations of the Code. A student who is exited from his or her resides middle or high school will be assigned to one of the alternative schools described in paragraph 16. Depending on the severity of the violation, a student who is exited from his or her resides middle or high school may not be permitted to return to the resides middle or high school.

93. A student who attends a school other than his or her resides school can be involuntarily exited from that school, in certain circumstances. A student who attends a magnet school, a magnet program or an optional program can be exited from the school or program for academic, behavior or attendance problems. A student who attends a school other than his or her resides school on a transfer application can be exited for academic, behavior or attendance problems or if there is a change in the circumstances on which the transfer was based. A student who is exited from a magnet school, magnet program, optional program or transfer school will be assigned to his or her resides school.

L. Traditional Program and Traditional Schools

JCPS adopted a program known as the Traditional Program beginning with the 1976-1977 school year. The Traditional Program is summarized in Exhibit 45 as follows:

The Traditional Program emphasizes the following:

- Basic skills in a highly structured educational environment
- Discipline and dress codes
- Learning with daily follow-up assignments

- Concepts of courtesy, patriotism, morality, and respect for others.

The key to successful students is parents. Within the Traditional Program, parents are expected to monitor their children's school work and to support academic and extracurricular activities. Traditional school PTA membership is always high, and all parents are encouraged to be involved.

See pages 8, 14 and 35 of Exhibit 45.

95. The current guidelines for the Traditional Program were adopted by the Board on January 26, 1998. A copy of the current Traditional Program Guidelines is attached as *Exhibit 54*.

96. The Traditional Program is offered at four magnet elementary schools, three magnet middle schools and two magnet high schools. These schools admit students only by application. These schools do not accept students based on transfer applications or high school open enrollment applications. Transportation is provided to all students who are accepted. The magnet schools which offer the Traditional Program, and the dates when each school first offered the Traditional Program, are:

Audubon Traditional Elementary School (1976)
Carter Traditional Elementary School (1977)
Greathouse/Shryock Traditional Elementary School (1978)
Schaffner Traditional Elementary School (1992)

Barrett Traditional Middle School (1986)
Jefferson County Traditional Middle School (1976)
Johnson Traditional Middle School (1992)
Butler Traditional High School (1988)
Louisville Male High School (1977)

See pages 8, 14 and 35 of Exhibit 45.

97. The nine Traditional Program magnet schools listed in paragraph 96 use a random-draw process to admit students. There are no selection criteria for admission into any of these schools, other than age, residence in Jefferson County and position on the random draw lists. For purposes of applications to the magnet elementary Traditional Program schools, the county is divided into four geographic zones. Elementary school students whose residence is within each zone and who are accepted into the Traditional Program will be assigned to attend the magnet elementary Traditional Program school located within that zone. For purposes of applications to the magnet middle Traditional Program schools, the county is divided into three geographic zones. Elementary school graduates whose residence is within each zone and who are accepted into the Traditional Program will be assigned to attend the magnet middle Traditional Program school located within that zone.

98. The Traditional Program is also offered to elementary school students at Foster Traditional Academy ("Foster") and Maupin. Foster and Maupin are resides schools, and the Traditional Program is offered at these schools as a magnet program. Foster first offered the Traditional magnet program in 1992, and Maupin first offered the Traditional magnet program in 1992. At Foster, the Traditional magnet program is operated as a "school within the school." For the 2003-2004 school year, 286 of the 560 students at Foster are enrolled in the Traditional magnet program. At Maupin, all students receive instruction based on the Traditional Program Guidelines. Students can be admitted into the school at either Foster or Maupin because they reside within the designated geographic attendance area of the school; because they reside within the geographic attendance area of another school in the Foster Cluster or the Maupin Cluster but they submit an elementary school cluster application to attend Foster or Maupin which is granted; because they submit an application to the Traditional magnet program at one of these schools

which is granted; or because they submit a transfer application to one of these schools which is granted. Transportation is provided to all students who are accepted into Foster and Maupin, except students who are accepted on a transfer from a school outside the Foster Cluster or the Maupin Cluster. *See* pages 14 and 17 of Exhibit 6.

99. When the four magnet elementary schools listed in paragraph 96 which offer the Traditional Program have accepted all applicants for which they have available space, Foster and Maupin send letters to the parents of Other student applicants who were not admitted to these schools, offering them the opportunity to apply to the Traditional magnet program at Foster or Maupin. Exhibit 1 is an example of this letter. The purpose of this practice is to provide an alternative to Other students who are not accepted into one of the four magnet elementary schools which offer the Traditional Program, and to help desegregate Foster and Maupin.

100. In addition to the nine magnet schools listed in paragraph 96, and Foster and Maupin, at which the Traditional Program is offered, there are eight resides schools which provide instruction to all students in the school in a traditional or structured environment, with an emphasis on traditional discipline and dress codes or uniforms, regularly assigned homework, and a stress on concepts of patriotism, morality, respect for others and personal integrity. The decision to provide instruction in a traditional or structured environment at each of these schools, and the particular characteristics of that environment at that school, was made by each school's SBDM council, and was approved by the Board. The instructional program and environment in these schools is governed by each school's individual guidelines, instead of the Traditional Program Guidelines described in paragraph 95. As an example, a copy of the guidelines for the traditional instructional program that was submitted to the Board and approved for Wilkerson Traditional Elementary School is attached as

Exhibit 55. These schools, and the dates when each school first included "Traditional" in its name, are:

Smyrna Traditional Elementary School (2002)
Wilkerson Traditional Elementary School (2002)

Moore Traditional Middle School (1998)
Westport Traditional Middle School and
Fine Arts Academy (1999)

Fern Creek Traditional High School (1997)
Moore Traditional High School (1997)
Valley Traditional High School (2000)
Waggener Traditional High School (1994)

See pages 15, 21, 28, 29, 34, 35, 36 and 37 of Exhibit 6 for a description of these schools and their programs.

101. Because the eight schools listed in paragraph 100 are resides schools, students can be admitted into one of those schools by their residence within the school's geographic attendance area, or in the case of one of the elementary schools by the application process described in paragraphs 64 and 65 if their residence is within the geographic attendance area of another school in the same cluster. Students can be admitted into one of the middle and high schools listed in paragraph 100 by acceptance of an application for admission into a magnet or optional program offered at the school, as described in paragraph 75, or in the case of one of the high schools by acceptance of a ninth grade open enrollment application, as described in paragraph 73. Students can be admitted into any of the eight schools listed in paragraph 100 by acceptance of a transfer application, as described in paragraph 78. Most of the students enrolled in the eight schools listed in paragraph 100 are admitted as resides students or cluster resides students. *See* copy of JCPS report attached as *Exhibit 56.*

M. Traditional Program "Pipeline"

102. Students who are enrolled in one of the nine magnet schools listed in paragraph 96 are coded as "traditional" students on their Integrated Student Record. Students who are accepted into the Traditional magnet program at Foster and Maupin are also coded as "traditional" students. Students who are enrolled at Foster or Maupin because it is their resides school, or because their resides school is in the Foster or Maupin cluster, or because they submitted a transfer application which was granted, are not automatically coded as "traditional" students, but they are so coded if they submit an application for admission into the Traditional Program which is granted. Students who are enrolled in the eight resides schools listed in paragraph 101 are not coded as "traditional" students.

103. The beginning grade level in the Traditional Program is grade Primary 1 (kindergarten). At this grade level, the four magnet elementary Traditional Program schools listed in paragraph 97 have 360 students (96 at each school, except 72 at Schaffner) who are coded as "traditional" students. In addition, a small number of kindergarten students at Foster and Maupin are accepted into the Traditional Program and are coded as "traditional" students. These students form the first stage of what is sometimes called the Traditional Program "pipeline."

104. The Traditional Program "pipeline" increases by 24 students at the Primary 2 (first grade) level, because Schaffner adds one first grade classroom. In addition, more students at Foster and Maupin may have been accepted into the Traditional Program during their first grade year.

105. The Traditional Program "pipeline" increases by 64 students at the fourth grade level, and by 16 students at the fifth grade level, because the pupil:teacher ratio ("PTR") increases from 24:1 to 28:1 at fourth grade, and from 28:1 to

29:1 at fifth grade. In addition, more students at Foster and Maupin may have been accepted into the Traditional Program during their second, third and fourth grade years.

106. The Traditional Program "pipeline" increases by about 450 students at the sixth grade level, even though the PTR at sixth grade remains at 29:1, because middle schools are larger than elementary schools and can accommodate more classrooms. The Traditional Program "pipeline" increases by 60 students at the seventh grade level, because the PTR increases from 29:1 to 31:1.

Paragraph 106 is agreed to by counsel for Plaintiffs subject to adding the following language to the paragraph: "Still determined by racial guidelines."

107. The two magnet high Traditional Program schools have available space for 946 ninth grade students, 446 at Butler and 500 at Male.

108. All students who complete kindergarten at one of the four magnet elementary Traditional Program schools listed in paragraph 96, and the Foster or Maupin Traditional magnet program, will progress to first grade at the same school without submitting an application, and will continue to progress through the remaining grades at that school, unless they are involuntarily exited from the Traditional Program or they choose to attend another school. Graduates of any other kindergarten may apply for admission to the first grade or subsequent grade at one of the four magnet elementary Traditional Program schools, or the Foster or Maupin Traditional magnet program, and their applications will be considered to the extent space is available after the admission of the "pipeline" students.

109. All students who graduate from one of the four magnet elementary Traditional Program schools, and students who graduate from Foster or Maupin and are coded "traditional," will be admitted without submitting an application to

the sixth grade at one of the three magnet middle Traditional Program schools listed in paragraph 96 and will progress through the remaining grades at that school, unless they are involuntarily exited from the Traditional Program or they choose to attend another school. Graduates of any other elementary school may apply for admission to the sixth grade or subsequent grade at one of the three magnet middle Traditional Program schools, and their applications will be considered to the extent space is available after the admission of the "pipeline" students.

110. The three magnet middle Traditional Program schools graduate a total of about 800 students. These students can state a preference to attend either Butler or Male. Graduates of any other middle school who wish to attend a magnet high Traditional Program school can apply to attend either Butler or Male. All students who graduate from one of the three magnet middle Traditional Program schools, and who wish to attend a magnet high Traditional Program school, typically will be admitted to either Butler or Male. Butler typically has about 200 openings for students who did not graduate from one of the three magnet middle Traditional Program schools. Male typically does not have any openings for those students.

Paragraph 110 is agreed to by counsel for Plaintiffs subject to adding the following language to the paragraph: "Still determined by racial guidelines."

N. Transportation

111. JCPS provides transportation for students who wish to receive transportation and live more than one mile from their assigned school, students who reside less than one mile from their assigned school but would encounter unsafe walking conditions such as railroad tracks or major highways, and students with disabilities whose Individual Education Plan requires transportation. This policy is subject to certain exceptions in cases when the student's assigned school is not

his or her resides school, as follows: At schools with optional programs, transportation is provided only to students who live in the school's designated geographic attendance area. Transportation is provided to students who attend a high school under an open enrollment application, if the student qualifies for FRL. Transportation may or may not be provided to students who attend an elementary, middle or high school under a transfer application, depending on availability. Transportation is not provided to any students at Brown, except ECE students. For the 2002-2003 school year, JCPS provided transportation to 58,053 students as outlined in paragraphs 112 to 119 below.

112. For the 2002-2003 school year, JCPS provided transportation to 4,194 students who attended the preschool programs described in paragraph 10. *See* copy of JCPS report attached as *Exhibit 57.*

113. For the 2002-2003 school year, JCPS provided transportation to 10,918 students who attended their resides elementary school, 10,068 students who attended their resides middle school, and 6,715 students who attended their resides high school. *See* copy of JCPS report attached as *Exhibit 58.*

114. For the 2002-2003 school year, JCPS provided transportation to 7,733 students who attended an elementary school other than their resides school, but within their resides cluster. *See* copy of JCPS report attached as *Exhibit 59.*

115. For the 2002-2003 school year, JCPS provided transportation to 1,919 students who attended a magnet elementary school, 2,078 students who attended a magnet middle school, and 3,423 students who attended a magnet high school. *See* copy of JCPS report attached as *Exhibit 60.*

116. For the 2002-2003 school year, JCPS provided transportation to 2,531 students who attended magnet programs (including magnet career academies) at a high school other than their resides school, 1,875 students who attended magnet

programs at a middle school other than their resides school, and 750 students who attended magnet programs at an elementary school other than their resides school. *See* copy of JCPS report attached as *Exhibit 61*.

117. For the 2002-2003 school year, JCPS provided transportation to 583 students who attended a high school other than their resides school under the high school open enrollment program. *See* copy of JCPS report attached as *Exhibit 62*.

118. For the 2002-2003 school year, JCPS provided transportation to 2,547 students who attended the alternative schools and special education centers described in paragraph 16. *See* copy of JCPS report attached as *Exhibit 63*.

119. For the 2002-2003 school year, JCPS provided transportation to 2,719 students who attended a school other than their resides school under a transfer application. *See* copy of JCPS report attached as *Exhibit 64*.

O. Annual Progress Report

JCPS publishes and distributes to parents and the community an annual progress report, which contains information about activities of the District within the school year. A copy of the 2002-2003 annual progress report is attached as *Exhibit 65*.

IV. PREVIOUS DESEGREGATION LITIGATION

In 1973, two lawsuits were filed against the Board and the former Louisville Board of Education in this Court alleging that the defendants maintained segregated school systems, and requesting this Court to order the defendants to desegregate the Jefferson County and Louisville schools. The lawsuits were consolidated into *Newburg Area Council, Inc., et al. v. Board of Education of Jefferson County, et al.*, Nos. 7045 and 7291, which later was styled *John E. Haycraft, et al. v. Board of Education of Jefferson County, et al.*, Nos.

7045 and 7291, assigned to Judge James F. Gordon (the "*Haycraft* Litigation").

122. On December 28, 1973, on appeal from Judge Gordon's dismissal of both lawsuits, the U.S. Court of Appeals for the Sixth Circuit issued an order which directed this Court to eliminate all vestiges of state-imposed segregation in the Jefferson County and Louisville schools, by whatever means this Court deemed appropriate, without regard to school district lines. *Newburg Area Council, Inc. v. Board of Education of Jefferson County*, 489 F.2d 925, 932 (6th Cir. 1973).

123. On July 30, 1975, Judge Gordon entered a Judgment and related Findings of Fact and Conclusions of Law in the *Haycraft* Litigation, which adopted, and ordered the Board to implement, a plan to desegregate the Jefferson County Public Schools. A copy of the Judgment and the Findings of Fact and Conclusions of Law is attached as *Exhibit 66*.

124. On June 15, 1978, Judge Gordon entered a Memorandum Opinion and Order and a Final Judgment in the *Haycraft* Litigation, which ruled that the Jefferson County Public Schools had become a "unitary" school system, and that the *Haycraft* Litigation was stricken from this Court's active docket for all purposes. A copy of the Memorandum Opinion and Order and the Final Judgment is attached as *Exhibit 67*.

125. On November 16, 1978, the U.S. Court of Appeals for the Sixth Circuit issued an order reversing this Court's May 10, 1977 order which had exempted first graders from the cross-district transportation plan. On May 3, 1979, Judge Gordon entered an Order regarding the assignment of first graders. In the May 3, 1979 Order, Judge Gordon ruled that he would retain jurisdiction of the *Haycraft* Litigation to monitor compliance with the Order until the end of the 1979-1980 school year. A copy of the May 3, 1979 Order is attached as *Exhibit 68*.

126. On December 4, 1981, Judge Gordon entered an Order in the *Haycraft* Litigation, stating that the *Haycraft* Litigation was stricken from the active docket for all purposes on all issues. A copy of the December 4, 1981 Order is attached as *Exhibit 69*.

127. In 1985, after the Board had adopted the voluntary student assignment plan described in paragraph 131 of this Stipulation, certain plaintiffs in the *Haycraft* Litigation filed a motion in this Court to restore the case to the active docket for purposes of modification of this Court's July 30, 1975 Judgment, to add an additional party plaintiff, and to designate a class representative. On September 24, 1985, Judge Ballantine entered a Memorandum Opinion and an Order denying the motion. A copy of the Memorandum Opinion and the Order is attached as *Exhibit 70*.

128. In April 1998, a lawsuit was filed in this Court against the Board and the Superintendent by the parents of students who alleged that they had been denied admission to Central High School because of their race. *Hampton v. Jefferson County Board of Education*, No. 3:98CV-262-H (the "*Hampton* Litigation"). The *Hampton* Litigation was assigned to Judge John G. Heyburn, II.

129. In June 1999, Judge Heyburn issued an opinion concluding that the original desegregation decree issued by Judge Gordon in the *Haycraft* Litigation in 1975 was still in effect, and inviting any party to move to dissolve that decree if it chose to do so. *Hampton v. Jefferson County Board of Education*, 72 F.Supp.2d 753 (W.D. Ky. 1999). The plaintiffs in the Hampton Litigation filed such a motion.

130. In June 2000, Judge Heyburn issued an opinion which dissolved the 1975 desegregation decree; ordered JCPS to admit to Central High School any African-American students denied enrollment on account of their race for the 2000-2001 school year; and ordered JCPS to complete any reevaluation

and redesign of the admissions procedures in other magnet schools before the beginning of the 2002-2003 school year. *Hampton v. Jefferson County Board of Education*, 102 F.Supp.2d 358 (W.D. Ky. 2000).

V. STUDENT ASSIGNMENT PLANS

131. In April 1984, the Board approved and adopted a student assignment plan for JCPS effective for the 1984-85 school year (the "1984 Plan"). The 1984 Plan was the first significant modification by the Board to the desegregation plan ordered by Judge Gordon in the Haycraft Litigation. A copy of the 1984 Plan, including the Board's findings, is attached as *Exhibit 71*.

132. In December 1991, in the wake of passage of KERA, the Board approved and adopted a revised student assignment plan effective for the 1992-93 school year (the "1991 Plan"). A copy of the 1991 Plan, including the Board's findings, is attached as *Exhibit 72*.

133. In August 1996, based upon the input received from a consultant, JCPS committees and a public opinion survey, the Board approved and adopted a revised student assignment plan effective for the 1996-1997 school year (the "1996 Plan"). A copy of the 1996 Plan, including the Board's findings, is attached as *Exhibit 73*.

134. In April 2001, in response to Judge Heyburn's June 2000 ruling in the Hampton Litigation, and after considering the results of a public opinion survey, public forums and other community input, the Board approved and adopted a revised student assignment plan effective for the 2001-2002 school year (the "2001 Plan"). A copy of the 2001 Plan, including the Board's findings, is attached as *Exhibit 74*.

135. A copy of the summary of the results of the public opinion survey described in paragraph 134 is attached as *Exhibit 75*.

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JEFFERSON COUNTY PUBLIC SCHOOLS

Louisville, Kentucky

Elementary Schools

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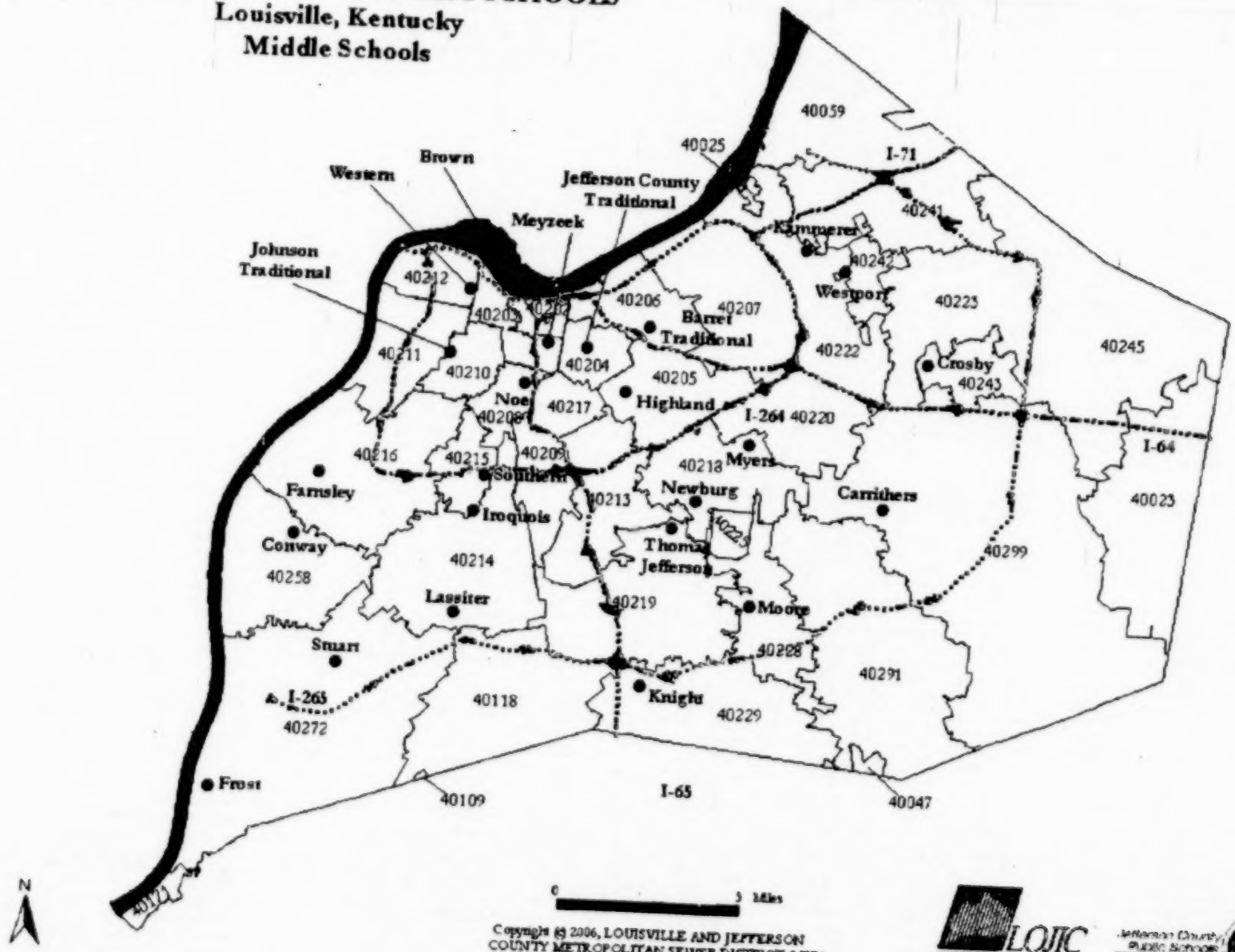
Jefferson County Public Schools
Shaping the Future

Accountability, Research & Planning
RJR, gmd 12/1/2003

JEFFERSON COUNTY PUBLIC SCHOOLS
Louisville, Kentucky
Middle Schools



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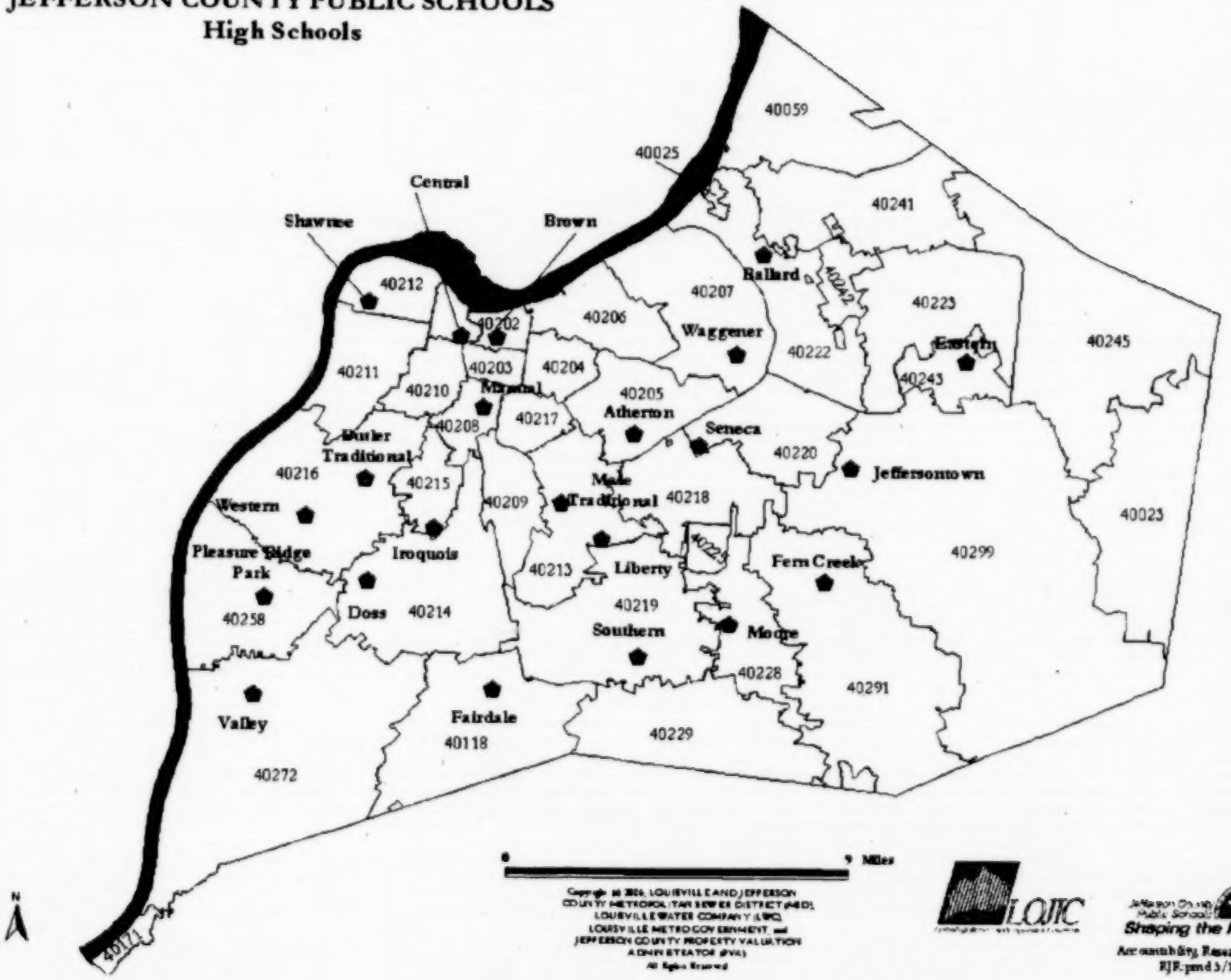
High Schools



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JEFFERSON COUNTY PUBLIC SCHOOLS
COMPREHENSIVE TEST OF BASIC SKILLS (CTBS/5)
ACHIEVEMENT GAP
Mean Normal Curve Equivalent (NCE)
SPRING 2002
Elementary Schools

	Reading		Language		Mathematics		Total Battery	
SCHOOL	White	African-American	White	African-American	White	African-American	White	African-American
Atkinson	37.7	31.4	37.3	32.4	37.2	31.8	36.3	30.8
Auburndale	51.8	52.2	53.4	48.5	55.4	48.7	54.2	49.8
Audubon Traditional	63.7	54.4	67.4	58.2	68.4	53.1	68.4	55.8
Bates	52.3	46.2	51.6	[illegible]	53.8	44.0	53.2	45.8
Blake	41.8	36.7	42.6	[illegible]8	42.7	35.4	42.1	34.5
Bloom	68.6	44.2	71.4	44.3	69.8	48.4	73.2	45.6
Blue Lick	43.1	29.3	42.7	30.7	43.8	32.5	43.2	28.7
Bowen	64.2	42.6	64.1	48.5	65.0	46.4	66.6	45.8
Brandeis	68.9	46.2	71.6	47.7	71.1	45.7	73.4	46.5
Breckinridge-Franklin	53.9	39.3	53.3	36.6	49.7	34.7	52.9	36.2
Brown	55.0	45.9	51.0	40.9	5[illegible]3	40.3	55.2	41.7
Byck	52.0	42.9	49.3	43.6	54.2	44.6	52.4	43.7
Camp Taylor	45.7	32.0	47.2	37.9	485.0	33.7	47.2	33.6
Cane Run	49.9	43.0	46.3	42.5	47.3	40.3	48.2	41.3
Carrithers	50.5	34.4	48.6	33.4	51.1	31.3	49.8	31.1
Carter Traditional	70.0	58.0	71.8	62.3	71.8	60.0	73.9	61.2
Chancery **	NA	NA	NA	NA	NA	NA	NA	NA
Chenoweth	60.6	44.0	58.0	42.0	60.7	44.0	61.0	43.2
Cochran	45.3	40.4	48.5	42.5	47.0	37.8	46.9	39.2
Cochrane	51.0	38.6	53.8	40.9	52.2	36.1	53.0	37.6
Coleridge-Taylor	67.1	40.9	62.1	43.1	65.0	42.5	67.1	41.7
Coral Ridge	49.8	36.0	48.3	40.5	45.6	36.2	48.0	36.9
Crums Lane	51.0	49.2	49.0	50.2	49.8	46.8	50.1	48.9
Dixie	48.1	41.1	49.3	38.4	49.9	37.9	49.3	38.6
Dunn	68.5	42.6	67.7	43.8	70.5	44.3	71.3	43.7
Eisenhower	58.9	36.8	64.6	38.4	58.1	38.0	62.0	36.5
Engelhard	59.5	51.7	53.9	50.1	58.0	49.4	58.3	50.8
Fairdale	47.6	32.8	45.5	35.5	45.9	34.6	46.3	32.8
Fern Creek	62.8	48.0	63.3	44.8	61.3	47.0	64.2	46.4
Field	58.3	33.6	65.0	36.0	60.8	33.7	63.3	33.2
Foster	53.0	55.7	53.8	57.8	58.6	55.1	56.3	57.0
Frayser	58.9	44.1	59.0	43.1	59.7	46.5	61.3	44.3
Gilmore Lane	45.4	45.7	54.6	40.5	55.0	42.1	52.2	42.7
Goldsmith	51.5	38.4	48.2	39.5	49.8	38.1	50.3	38.2
Greathouse/Shryock Traditional	68.8	52.5	69.7	48.8	66.8	51.9	70.6	51.4
Greenwood	60.8	42.3	66.2	46.7	64.5	44.6	65.7	44.1
Gutermuth	60.1	49.4	59.3	48.2	65.4	49.8	63.8	49.1
Hartstern	54.4	41.3	56.7	41.4	56.4	41.3	56.5	40.6

JEFFERSON COUNTY PUBLIC SCHOOLS
COMPREHENSIVE TEST OF BASIC SKILLS (CTBS/5)
ACHIEVEMENT GAP
Mean Normal Curve Equivalent (NCE)
SPRING 2002
Elementary Schools

	Reading		Language		Mathematics		Total Battery	
SCHOOL	White	African-American	White	African-American	White	African-American	White	African-American
Hawthorne	65.1	40.9	58.3	37.2	58.6	38.4	62.3	38.2
Hazelwood	42.7	38.7	41.4	39.9	40.9	35.4	41.3	37.4
Hite	65.3	42.9	62.8	44.8	68.5	48.2	67.8	44.8
Indian Trail	56.5	46.4	50.5	49.0	58.9	53.9	56.5	50.1
Jacob	54.4	48.1	52.7	45.1	49.3	47.0	52.7	46.9
Jeffersontown	57.3	44.8	58.1	43.6	58.1	48.3	59.1	45.7
Johnsontown	50.0	38.8	53.1	36.2	52.0	37.1	51.9	36.4
Kennedy	65.0	56.6	64.9	58.6	59.2	54.8	65.0	57.9
Kenwood	58.6	40.1	54.9	40.2	56.9	41.8	57.9	39.6
Kerrick	56.1	44.8	58.7	42.5	59.1	46.4	59.0	44.4
King	63.2	45.7	63.0	45.7	63.9	45.4	65.0	45.1
Klondike	60.6	45.3	57.2	45.2	63.2	46.3	61.7	45.5
Laukhuf	53.8	43.0	56.3	45.4	54.4	43.9	55.5	43.5
Layne	52.5	43.7	52.1	40.2	54.4	37.8	53.7	40.6
Lincoln	50.1	38.9	49.2	36.3	49.5	38.0	49.8	37.2
Lowe	61.1	51.0	61.7	48.2	57.0	47.3	61.3	49.6
Luhr	60.0	44.5	61.2	46.3	58.8	43.1	61.4	44.3
Maupin	50.4	39.4	47.7	40.3	47.6	35.7	48.7	37.6
McFerran	45.8	40.1	45.2	37.8	45.1	37.2	45.2	37.6
Medora	64.8	50.4	68.0	56.5	65.9	47.8	68.2	51.5
Middletown	68.3	40.7	65.0	42.5	62.6	40.6	67.4	41.0
Mill Creek	48.3	53.2	48.6	58.0	46.1	44.6	47.8	52.3
Minors Lane	40.5	36.3	39.0	34.5	39.6	34.4	39.3	33.8
Norton	63.2	47.4	67.2	49.8	63.1	42.4	66.5	46.6
Okolona	54.6	41.8	52.1	44.3	55.0	38.6	54.8	41.0
Portland	37.6	41.8	39.2	42.2	38.6	41.2	38.1	41.2
Price	54.7	50.9	48.8	47.0	51.4	49.0	52.1	49.0
Rangeland	59.5	55.3	60.6	53.6	72.2	64.2	66.1	58.5
Roosevelt Perry	39.3	29.7	42.8	30.4	43.5	30.8	41.5	28.0
Rutherford	48.4	41.3	48.6	39.7	49.8	39.3	48.7	39.3
Sanders	50.5	37.0	49.6	39.7	48.9	35.5	49.9	36.9
Schaffner Traditional	67.0	63.7	69.7	66.7	70.0	66.2	71.5	68.2
Semple	43.6	37.4	44.3	36.0	42.7	38.7	42.9	36.7
Shacklette	54.1	41.3	54.4	40.4	55.6	42.5	55.6	40.9
Shelby	36.2	34.2	38.2	38.0	35.5	33.8	35.5	34.0
Slaughter	39.6	35.9	39.3	35.5	38.4	35.5	37.9	34.9
Smyrna	61.0	49.3	60.5	48.1	57.6	42.1	61.0	46.9
St. Matthews	58.0	44.6	57.1	46.4	62.4	41.7	60.6	43.9
Stonestreet	55.0	39.1	53.9	45.8	57.6	39.1	56.8	40.9

JEFFERSON COUNTY PUBLIC SCHOOLS
COMPREHENSIVE TEST OF BASIC SKILLS (CTBS/5)
ACHIEVEMENT GAP
Mean Normal Curve Equivalent (NCE)
SPRING 2002
Elementary Schools

	Reading		Language		Mathematics		Total Battery	
SCHOOL	White	African-American	White	African-American	White	African-American	White	African-American
Trunnell	54.4	39.2	55.8	37.7	58.3	39.9	**57.1**	**37.6**
Tully	61.4	44.7	64.2	41.6	61.7	38.8	**64.1**	**41.6**
Watson Lane	46.8	38.8	46.7	41.6	49.5	40.1	**47.6**	**39.6**
Watterson	54.8	40.9	51.5	41.2	58.0	39.8	**55.4**	**39.8**
Wellington	44.5	40.1	43.8	35.9	47.6	34.3	**45.0**	**35.9**
Wheatley	*	40.2	*	41.3	*	40.9	*	**40.4**
Wheeler	60.3	45.6	57.0	46.6	60.6	45.0	**60.3**	**45.5**
Wilder	66.4	48.4	66.9	50.5	65.1	47.8	**68.6**	**49.5**
Wilkerson	50.4	34.6	49.5	39.7	52.7	37.6	**51.4**	**36.7**
Wilt	51.7	41.7	50.8	43.0	56.8	44.5	**53.7**	**42.9**
Young	57.3	46.7	52.0	43.5	55.4	47.4	**56.0**	**45.8**
Zachary Taylor	56.7	44.4	56.1	45.1	57.9	47.4	**58.0**	**45.5**
Elementary District Totals	**55.7**	**43.4**	**55.7**	**43.7**	**56.3**	**42.9**	**56.9**	**43.0**

* To protect anonymity, no performance data are reported if category includes fewer than 10 students

**Chancey Elementary was a new school as of 2002-2003 school year.

JEFFERSON COUNTY PUBLIC SCHOOLS

Elementary School Enrollment

2002-2003

		PROGRAM CAPACITY	STUDENT ENROLLMENT	%BLACK ENR. (8/23/2002)	STUDENTS IN RESIDES	%BLACK IN RESIDES	RESIDES-ENR. IN NON-PUBLIC	RESIDES-ENR. IN ANY PUBLIC	RESIDES-ENR. RESIDES SCHOOL	RESIDES-ENR. ANOTHER PUBLIC
185	Atkinson	755	633	50.3	1016	61.5%	7.6%	92.4%	49.1%	43.3%
127	Auburndale	640	549	35.8	783	12.1%	22.7%	77.3%	47.4%	29.9%
44	Audubon Traditional	608	579	33.0	N/A	N/A	N/A	N/A	N/A	N/A
55	Bates	490	474	19.7	938	5.9%	39.7%	60.3%	26.5%	33.8%
149	Blake	548	535	41.8	681	12.6%	18.5%	81.5%	47.0%	34.5%
225	Bloom	466	443	32.9	861	3.3%	52.0%	48.0%	21.7%	26.2%
91	Blue Lick	580	529	24.3	630	11.7%	12.5%	87.5%	60.2%	27.3%
94	Bowen	729	667	27.3	1217	7.6%	41.1%	58.9%	36.4%	22.5%
260	Brandeis	545	515	32.7	N/A	N/A	N/A	N/A	N/A	N/A
38	Breckinridge-Franklin	578	429	45.9	726	40.4%	16.9%	83.1%	44.8%	38.3%
265	Brown	270	261	37.3	N/A	N/A	N/A	N/A	N/A	N/A
243	Byck	583	512	47.2	1150	84.7%	5.2%	94.8%	28.2%	66.6%
4	Camp Taylor	568	511	30.3	1072	8.3%	39.8%	60.2%	32.2%	28.0%
5	Cane Run	574	525	49.4	582	83.0%	6.2%	93.8%	33.7%	60.1%
680	Carter Traditional Flem	650	579	36.0	N/A	N/A	N/A	N/A	N/A	N/A
102	Chancey	650	629	35.4	1343	25.2%	24.0%	76.0%	44.7%	31.3%
46	Chenoweth	664	570	42.8	1250	13.1%	54.7%	45.3%	27.3%	18.0%
323	Cochran	514	386	45.1	592	40.9%	18.8%	81.3%	38.3%	42.9%
83	Cochrane	495	419	40.1	523	12.6%	27.7%	72.3%	43.2%	29.1%
660	Coleridge-Taylor	728	672	48.1	426	96.7%	3.5%	96.5%	40.4%	56.1%
60	Coral Ridge	562	485	27.0	420	0.5%	10.5%	89.5%	58.6%	31.0%
92	Crums Lane	550	479	48.4	657	45.7%	13.2%	86.8%	31.7%	55.1%
82	Dixie	468	427	22.0	536	6.7%	16.0%	84.0%	57.3%	26.7%
156	Dunn	603	566	23.6	1241	5.4%	55.8%	44.2%	26.8%	17.4%
131	Eisenhower	551	442	36.2	421	3.8%	24.2%	75.8%	50.4%	25.4%
240	Engelhard	480	429	48.1	662	70.7%	5.9%	94.1%	32.6%	61.5%
10	Fairdale	669	542	29.1	596	2.2%	10.9%	89.1%	49.8%	39.3%

JEFFERSON COUNTY PUBLIC SCHOOLS

Elementary School Enrollment

2002-2003

		PROGRAM CAPACITY	STUDENT ENROLLMENT	%BLACK ENR. (8/23/2002)	STUDENTS IN RESIDES	%BLACK IN RESIDES	RESIDES-ENR. IN NON-PUBLIC	RESIDES-ENR. IN ANY PUBLIC	RESIDES-ENR. RESIDES SCHOOL	RESIDES-ENR. ANOTHER PUBLIC
11	Fern Creek	770	764	24.9	1278	30.1%	26.9%	73.1%	28.4%	44.7%
250	Field	426	366	46.9	572	7.3%	48.8%	51.2%	24.3%	26.9%
270	Foster	650	599	50.4	835	95.0%	5.7%	94.3%	23.1%	71.1%
290	Frayser	522	392	49.3	822	53.6%	8.4%	91.6%	39.5%	52.1%
58	Gilmore Lane	407	354	42.5	365	29.9%	17.8%	82.2%	52.6%	29.6%
61	Goldsmith	650	638	41.9	1011	29.5%	25.8%	74.2%	45.9%	28.3%
13	Greathouse/Shryock Trad	608	590	24.8	N/A	N/A	N/A	N/A	N/A	N/A
14	Greenwood	535	573	33.8	589	14.1%	18.8%	81.2%	46.7%	34.5%
115	Gutermuth	563	497	44.0	868	32.8%	19.4%	80.6%	30.0%	50.7%
121	Hartstern	592	579	32.6	862	40.4%	16.1%	83.9%	35.6%	48.3%
48	Hawthorne	505	375	44.4	945	5.7%	60.8%	39.2%	15.7%	23.5%
300	Hazelwood	696	465	44.8	812	43.3%	13.7%	86.3%	40.1%	46.2%
95	Hite	512	513	21.9	604	9.8%	25.5%	74.5%	43.0%	31.5%
76	Indian Trail	537	530	48.2	682	46.0%	8.9%	91.1%	50.3%	40.8%
325	Jacob	675	627	49.9	1085	56.7%	9.6%	90.4%	45.2%	45.3%
166	Jeffersontown	759	742	26.0	1177	8.7%	33.2%	66.8%	42.2%	24.6%
106	Johnsontown Road	471	392	39.2	426	5.2%	25.8%	74.2%	48.4%	25.8%
720	Kennedy	565	592	48.1	402	94.5%	5.0%	95.0%	21.6%	73.4%
59	Kenwood	669	583	36.4	711	12.2%	24.6%	75.4%	46.0%	29.4%
79	Kenwick	540	426	44.3	519	24.3%	22.5%	77.5%	42.6%	34.9%
432	King	484	421	48.6	585	94.7%	0.0%	100.0%	34.0%	66.0%
134	Klondike Lane	624	611	37.9	1541	19.7%	40.8%	59.2%	26.7%	32.4%
145	Laukhuf	620	535	22.1	708	5.6%	19.5%	80.5%	46.5%	34.0%
126	Layne	490	468	26.3	530	4.3%	20.9%	79.1%	46.2%	32.8%
520	Lincoln	406	372	50.0	603	79.4%	7.8%	92.2%	34.3%	57.9%
146	Lowe	566	553	28.4	1102	8.7%	42.9%	57.1%	29.8%	27.3%
107	Luhr	524	488	37.6	665	24.2%	33.1%	66.9%	28.7%	38.2%

JEFFERSON COUNTY PUBLIC SCHOOLS

Elementary School Enrollment

2002-2003

		PROGRAM CAPACITY	STUDENT ENROLLMENT	%BLACK ENR. (8/23/2002)	STUDENTS IN RESIDES	%BLACK IN RESIDES	RESIDES-ENR. IN NON-PUBLIC	RESIDES-ENR. IN ANY PUBLIC	RESIDES-ENR. RESIDES SCHOOL	RESIDES-ENR. ANOTHER PUBLIC
480	Maupin	650	625	46.8	613	95.8%	3.8%	96.2%	35.2%	61.0%
440	McFerran	1062	866	48.9	681	87.5%	6.8%	93.2%	42.7%	50.5%
22	Medora	420	390	24.4	422	2.1%	14.9%	85.1%	61.8%	23.2%
24	Middletown	632	528	29.2	1140	14.7%	40.4%	59.6%	29.3%	30.4%
147	Mill Creek	564	453	48.3	727	72.6%	7.6%	92.4%	39.6%	52.8%
99	Minors Lane	600	520	42.1	268	4.9%	7.1%	92.9%	82.5%	10.4%
96	Norton	774	734	25.1	1223	5.6%	48.1%	51.9%	32.0%	20.0%
27	Okolona	501	493	43.3	552	38.8%	13.8%	86.2%	33.5%	52.7%
500	Portland	472	380	49.4	565	55.8%	8.8%	91.2%	49.0%	42.1%
128	Price	569	547	47.7	592	73.8%	12.7%	87.3%	36.8%	50.5%
81	Ratterman	520	452	47.2	522	73.0%	6.1%	93.9%	34.1%	59.8%
530	Roosevelt/Perry	451	373	47.6	748	68.6%	6.6%	93.4%	43.9%	49.6%
560	Rutherford	600	520	31.1	1103	17.4%	17.3%	82.7%	39.9%	42.8%
86	Sanders	490	503	34.9	790	13.0%	19.5%	80.5%	38.4%	42.2%
63	Schaffner	600	577	32.4	N/A	N/A	N/A	N/A	N/A	N/A
580	Semple	629	613	36.0	916	14.7%	17.9%	82.1%	49.1%	33.0%
97	Shacklette	708	657	27.9	584	11.3%	22.9%	77.1%	47.9%	29.1%
610	Shelby	440	315	49.4	666	48.0%	10.8%	89.2%	37.2%	52.0%
103	Slaughter	454	453	47.7	575	47.8%	9.9%	90.1%	31.3%	58.8%
87	Smyrna	631	656	29.8	893	9.9%	30.1%	69.9%	46.9%	23.0%
64	St Matthews	519	515	23.5	1148	5.0%	54.4%	45.6%	25.6%	19.9%
71	Stonestreet	578	477	22.6	539	2.2%	20.4%	79.6%	48.1%	31.5%
104	Trunnell	661	640	33.7	837	13.4%	26.4%	73.6%	38.9%	34.6%
16	Tully	809	787	24.9	1270	7.0%	38.5%	61.5%	35.4%	26.1%
69	Watson Lane	661	613	26.1	788	5.6%	9.0%	91.0%	61.4%	29.6%
72	Watterson	606	611	42.2	1183	26.9%	33.9%	66.1%	28.5%	37.6%
116	Wellington	547	439	49.0	724	37.7%	16.7%	83.3%	29.3%	54.0%

JEFFERSON COUNTY PUBLIC SCHOOLS
Elementary School Enrollment
2002-2003

		PROGRAM CAPACITY	STUDENT ENROLLMENT	%BLACK ENR. (8/23/2002)	STUDENTS IN RESIDES	%BLACK IN RESIDES	RESIDES-ENR. IN NON-PUBLIC	RESIDES-ENR. IN ANY PUBLIC	RESIDES-ENR. RESIDES SCHOOL	RESIDES-ENR. ANOTHER PUBLIC
182	Wheatley	600	446	48.8	796	92.6%	5.2%	94.8%	29.3%	65.6%
109	Wheeler	665	654	23.2	1181	7.5%	29.7%	70.3%	32.0%	38.3%
67	Wilder	606	598	29.9	702	18.8%	31.2%	68.8%	44.3%	24.5%
66	Wilkerson	470	405	20.7	406	7.4%	18.7%	81.3%	51.5%	29.8%
117	Wilt	550	479	26.0	597	7.0%	19.8%	80.2%	45.6%	34.7%
374	Young	610	513	46.8	930	95.9%	5.7%	94.3%	27.8%	66.5%
78	Zachary Taylor	680	522	35.3	959	13.7%	33.7%	66.3%	32.6%	33.7%
	TOTAL	51,213	46,186	36.2	64,272	30.4%	24.2%	75.8%	37.7%	38.2%

2004-05 Application

Magnet Schools, Magnet Programs, Magnet Career Academies, Optional Programs, and High School Open Enrollment

Middle and High School: Grades Six Through Twelve

Please print.

Student's Full Name:

_____
First Middle Last

Date of Birth: _____ Current School: _____

Mark the level/grade student will be in **NEXT** year.

❑ Grade Six ❑ Grade Seven ❑ Grade Eight
❑ Grade Nine ❑ Grade Ten ❑ Grade Eleven ❑ Grade Twelve

Race ❑ Black ❑ All Others Sex ❑ Male ❑ Female

Student's Social Security Number: ___ ___ ___ – ___ ___ – ___ ___ ___ ___

Address: _____
Number Street

_____
City State Zip

Parent's/Guardian's Telephone Number

Work: (_____) _____ Home: (_____) _____

FIRST CHOICE: _____ _____ _____ / _____ _____ _____
School Code Program Code

* SECOND CHOICE: _____ _____ _____ / _____ _____ _____
School Code Program Code

* Only list choice programs with access on the second draw lists for the Traditional Program at Barret, Johnson, and JCTMS Traditional middle schools and Male and Butler Traditional high schools, as well as the Brown School, Meyzeek, Newburg, and Ramsey MST programs.

- Siblings are not given preference to attend Magnet Schools.

The Brown School and traditional schools consider multiple births (twins, etc.) as one application.
Does the applicant have a twin? ❑ Yes ❑ No
If yes, give the twin's name _____
Is the twin applying to the same school? ❑ Yes ❑ No

Optional, Magnet, and Advance Programs Office
485-3323

When your application is received, a confirmation postcard is mailed. If you have not received this card within three weeks of submitting your application, please call 485-3323.

Parent's/Guardian's Signature: _____ Date: _____

Parent's/Guardian's Name: (Please print.) _____

It is the parent's/guardian's responsibility to mail the application to Jefferson County Public Schools, Optional, Magnet, and Advance Programs Office P.O. Box 34020, Louisville, KY 40232-4020 or bring the the application in person to the JCPS Optional, Magnet, and Advance Programs Office at 3309 Bishop Lane (behind the Hawthorne Education Center).

www.jefferson.k12.ky.us

Jefferson County Public Schools
Shaping the Future

APRIL 2, 2001

TO: BOARD OF EDUCATION
JEFFERSON COUNTY
PUBLIC SCHOOL DISTRICT

FROM: STEPHEN W. DAESCHNER
SUPERINTENDENT

SUBJECT: STUDENT ASSIGNMENT

RECOMMENDATION: I recommend that the Board of Education approve the findings and recommendations regarding student assignment in the Jefferson County Public Schools.

FINDINGS

The Jefferson County school district is committed to providing a quality education and equal opportunities to all students. The District believes that all students can learn at high levels, regardless of their race, economic level or social status. The District's Student Assignment Plan is a very important element of the District's policies for attaining these goals.

The District's Student Assignment Plan has evolved over the years in response to external developments. The revisions to the Student Assignment Plan that are now presented to the Board of Education constitute another chapter in the history of student assignment in the District. A review of the past changes to the plan will demonstrate that the District's commitment to a quality education with equity for all students has been and will continue to be the underlying basis for the District's policies for the assignment of students to schools.

Since 1975, the District has assigned students at all grade levels to achieve racial desegregation. Initially, the District's student assignment plan was mandated by order of the federal

district court. During this period, all schools were desegregated within racial guidelines mandated by the court, except special schools. Desegregation was accomplished by mandatory busing of students based on factors ordered by the court.

In 1984, after extensive discussions with representatives of the community and the plaintiffs who had filed the original lawsuit, the District made significant modifications to the Student Assignment Plan. Attendance areas for middle and high schools were redrawn so that students could attend the same school throughout their middle and high school years. Adjustments were made in the original racial guidelines that had been ordered by the court in 1975.

In 1991, in response to the sweeping changes in Kentucky education law enacted by the Kentucky Education Reform Act of 1990 (KERA), the District again made significant modifications to the Student Assignment Plan. The 1991 plan eliminated the built-in change of schools within the elementary years to provide greater stability for students and parents during those years. Also, the 1991 plan was based on the concept of managed choice. Under this system, students may apply for schools or programs of their choice, and may be placed in those schools or programs subject to building/ program capacity, racial guidelines, and in some instances admission criteria.

Because the concept of managed choice was new, the District thought it wise to conduct a review of the Student Assignment Plan in 1995. The District implemented a process to receive public input and recommendations to identify areas for change, refinement or enhancement of the 1991 managed choice plan. Significant elements of the revised Student Assignment Plan adopted in 1996 included establishment of an administrative unit to implement the plan; accountability by consistent monitoring and reporting to the Board of Education; increased access for African-American students through racial guidelines of 15% minimum and 50% maxi-

mum African-American enrollment in all schools, together with a plan to encourage all schools to move toward an enrollment that reflects the District's actual average African-American enrollment of approximately 30%; and more effective management of desegregation at the elementary level.

In 1998, a lawsuit was filed against the District which challenged the Student Assignment Plan as it applied to the admission of African-American students to Central High School. The plaintiffs argued that the District's student assignment policies, which limited the number of African-American applicants who could be admitted to Central under the District's managed choice system, were an unconstitutional infringement of their rights. Although the plaintiffs were concerned only with the admissions process at Central, their lawsuit called into question whether the District could continue its commitment to education in a racially integrated environment. The District vigorously defended its student assignment policies, as applied at Central and all other schools. The court permitted intervention in the lawsuit by other interested groups and parents who argued that the District's policies of racial integration should be continued and even strengthened by the court.

In June 2000, the federal district court made several significant rulings in response to this lawsuit. First, the court held that the District is no longer subject to the 1975 federal court decree that mandated the desegregation of the Jefferson County Public Schools. The court commended the District for its good faith implementation of the 1975 decree for many years, but it concluded that the District had done all that was practicable to eliminate the vestiges of former state-sponsored segregation in the schools. Next, the court addressed the plaintiffs' specific arguments with regard to Central High School Magnet Career Academy. The court concluded that because the programs offered at Central are not available at other high schools in the District, the District cannot exclude

any student from admission to Central solely on the basis of race. This ruling was made effective for the 2000-2001 school year. The court further ordered the District to consider whether this ruling required a change in the admission process at other magnet schools. The court said that any such change would not be required until the 2002-2003 school year. Finally, the court ruled that the District may have compelling reasons to continue a fully integrated school system in all other schools, and that the District is free to adopt whatever student assignment plan it deems most beneficial to its students, consistent with the court's opinion and the Equal Protection Clause.

In September 2000, the court concluded that, having dissolved the decree and having ruled on the pending controversies, its continued oversight was unnecessary. The court ruled that its prior orders were deemed final and appealable. No appeals were taken, and the District was therefore free to take action to implement the June 2000 rulings with regard to magnet schools and other schools.

In the fall of 2000, the District began a process to receive public input regarding possible changes in the Student Assignment Plan, consistent with the court's orders. This process included public forums in locations throughout the county, a parent opinion survey conducted by the University of Kentucky, discussions with outside experts, and extensive review of all issues at a high level within the District's administration. The result of that process is the revised Student Assignment Plan that is presented for consideration by the Board of Education.

Significant elements of the proposed plan are as follows:

- The Board of Education will continue with Board Goals which provide that our students will be academically prepared in racially integrated learning environments and that they will be safe, supported,

respected and confident in racially integrated schools, classrooms, and student activities.

- With the exception of special schools and four magnet schools, all schools will continue to have a minimum African-American enrollment of 15% and a maximum African-American enrollment of 50%. The four magnet schools—Brandeis Math, Science and Technology Magnet Elementary School; Brown School; Central High School Magnet Career Academy; and duPont Manual High School/Youth Performing Arts School —will not be required to meet the 15% to 50% enrollment percentages, but shall be encouraged to provide racially integrated learning environments within the above percentages and shall annually submit a plan for that purpose.
- The superintendent shall continue to monitor and provide a report to the Board of Education regarding implementation of the Student Assignment Plan.
- The District will develop and implement appropriate orientation and training for all principal candidates, new principals, and current principals related to the successful implementation of the Student Assignment Plan.
- The District will also develop and implement appropriate training and orientation for all schools in the Student Assignment Plan and its goals.
- All other recommendations approved by the Board of Education in 1996 shall continue in effect

RECOMMENDATIONS

The current Student Assignment Plan approved and adopted by the Board of Education on August 26, 1996, shall be revised as set forth below effective July 1, 2002, with preparation and appropriate activities to begin immediately.

A. Integration and Educational Quality

1. The school district shall maintain educational and financial equity among all school children in the district by providing substantially uniform educational resources to all students in the district regardless of the location of their school, the racial composition of their school, or the type of educational program in which they are enrolled. The school district shall actively seek and obtain all types of additional intervention and compensatory resources for all eligible students and schools.

2. The Board of Education reaffirms its commitment to the current Board Goals 1 and 2 which state:

- All JCPS students will become critical thinkers and lifelong learners who are academically prepared in a racially integrated environment to be successful in the post-secondary education programs or careers of their choice.
- All JCPS students will be safe, supported, respected, and confident in racially integrated schools, classrooms, and student activities.

3. The school district shall make provisions for staff development which prepares all staff to work successfully with all students regardless of racial, ethnic, and cultural backgrounds; shall promote and encourage the use of effective and innovative instructional strategies in classrooms throughout the district; and shall create or expand strategically placed tutorial and enrichment services with the objective of raising the achievement levels of all students, especially those racial, socio-economic, and gender groupings which have lagged in achievement levels.

4. The school district shall maintain and update its current staff integration goals and practices and shall continue to actively seek more African-American teachers, counselors, and administrators.

B. Strategies for Achieving Integration

1. Any student who is in the minority in the school attendance area in which he or she resides shall be enrolled in that school unless he or she applies and is accepted into another school. Any student who is in the majority in the school attendance area in which he or she resides and who desires to transfer to a non-magnet school/program in an area in which he or she would be in the minority may have that transfer granted within the limits of building/program capacity.

2. All schools except special schools and those magnet schools listed in Attachment A shall have a minimum African-American enrollment of 15% and a maximum African-American enrollment of 50%. Those magnet schools listed in Attachment A will not be required to meet the 15% to 50% enrollment percentages, but shall be encouraged to provide racially integrated learning environments within the above-mentioned percentages and shall annually submit a plan for that purpose. The school district shall provide assistance to encourage all schools to achieve an African-American enrollment equivalent to the average district-wide African-American enrollment at the school's respective elementary, middle or high school level. The racial make-up of a school shall be determined based upon the enrollment in grades 1-12 with the exception of students in Exceptional Child Education self-contained classes and students who are enrolled in alternative schools and programs.

3. Schools shall work cooperatively with each other and with central office to ensure that enrollment at all schools except those on Attachment A is within the racial guidelines annually and to encourage that the enrollment at all schools progresses toward the midpoint of the guidelines.

4. Program capacity shall be established for each school taking into account factors such as: size of facility, size of

student population, program placement, class-size guidelines, work stations, and facility utilization.

5. The school district shall develop and implement a funding formula through which schools shall receive per-pupil funding for enrollment that is within the agreed-upon designated program capacity formula.

6. All elementary students (K-5) shall be assigned to the school which serves the area in which they reside. Kindergarten students shall be enrolled in that school unless the school has reached building/program capacity or (1) the student applies for and is granted placement into a magnet school/program or optional program, (2) the student applies for and is granted placement at another school in the cluster, or (3) the student applies for and receives a transfer to a school in another cluster. Students in grades 1-5 shall be enrolled in that school unless the school has reached building/program capacity and/or the extremes of the racial guidelines or (1) the student applies for and is granted placement into a magnet school/program or optional program, (2) the student applies for and is granted placement at another school in the cluster, or (3) the student applies for and receives a transfer to a school in a different cluster.

7. Elementary schools shall be grouped into clusters in order to facilitate integration. Advance Program feeder patterns shall be consistent with cluster alignment and cluster integration. Cluster alignment and Advance Program feeder patterns are displayed in Attachments B and C.

8. Each cluster shall annually submit a plan to implement programs which facilitate and enhance integration within the guidelines. Upon approval of its plan, the cluster shall receive funding to support implementation of its plan.

9. All 6th through 8th grade students shall be assigned to the middle school which serves the area in which they reside. They shall be enrolled in that school unless the school has

reached building/program capacity and/or the extremes of the racial guidelines; or (1) the student applies to and is granted placement into a magnet/optional school/program or (2) the student applies for and receives a transfer.

10. All 9th through 12th grade students shall be assigned to the high school which serves the area in which they reside. They shall be enrolled in that school unless the school has reached building/program capacity and/or the extremes of the racial guidelines; or (1) the student applies to and is granted placement into a magnet/optional school/program, (2) the student applies to and is granted placement into another high school under the open enrollment program, or (3) the student applies for and receives a transfer.

11. School attendance boundaries and placement of programs shall be adjusted as necessary in order to facilitate implementation of the student assignment plan and to address issues of building/program capacity. (See Attachment D)

C. Administration, Monitoring and Accountability for Integration

1. All actions for the implementation of these recommendations shall be coordinated and assisted by the Department of Student Assignment, Health, and Safety formed for the purpose and empowered to ensure that schools appropriately implement the Student Assignment Plan.

2. The superintendent shall establish a monitoring system to provide data and report to the Board of Education regarding implementation of the Student Assignment Plan.

3. The school district shall continue to use one application form and process for elementary schools/programs, and one for middle schools/programs and high schools/programs.

4. The school district shall continue to implement a centralized process to identify, select, and place students who are interested in magnet/optional schools/programs and high

school open enrollment. (See Attachment E). The school district shall also continue to implement an exit process with opportunity for appeal for students enrolled in magnet/ optional schools/programs. (See Attachment F).

5. The school district shall continue to administer a consistent process for enrolling students into elementary, middle, and high schools/programs.

6. All students enrolled in the eighth grade in the district's Traditional Program and Brown School shall reaffirm their commitment to those programs as a condition of enrollment in those programs at the high school level.

7. The school district shall continue to implement a consistent process for informing parents and students about the Student Assignment Plan and available choices. This process shall continue to include the role of schools which shall have the major responsibility and Parent Assistance Centers which have been established in various geographical areas to provide support for parents and students participating in the school selection/assignment process.

8. The school district shall continue to implement a process for identifying possible new or expanded magnet/ optional schools/programs. This process shall consider requests by schools and magnet/optional school/program placements to enhance implementation of the Student Assignment Plan.

9. The Department of Student Assignment, Health and Safety shall develop and implement appropriate training and orientation on the Student Assignment Plan and its goals for all schools.

10. The Department of Student Assignment, Health and Safety shall develop and implement appropriate orientation and training for principal candidates, new principals, and current principals on the Student Assignment Plan and its goals.

11. The school district shall include in the job description of the principal and appropriate central office staff a requirement that each be responsible for implementation of the Student Assignment Plan.

12. Any school that is having difficulty in achieving compliance with the Student Assignment Plan shall enter a process which includes planning and preparation with central office support to achieve compliance the following year.

13. The Superintendent is authorized to take all actions that are necessary to implement these recommendations.

Attachment A

Brandeis Math, Science and Technology Magnet Elementary School

Brown (Elementary, Middle and High) School

Central High School Magnet Career Academy

DuPont Manual High School/Youth Performing Arts School

Attachment B

Jefferson County Public Schools
~~1997-98~~ 2002-03 Student Assignment
Elementary School Clusters

• **BYCK/ LINCOLN**	• **CANE RUN**	• **COLERIDGE-TAYLOR**	• **FOSTER**
• Bloom	Crums Lane	• Dunn	Atkinson
~~Breckinridge~~	Jacob	Englehard	Greenwood
Cochrane	Shacklette	• Lowe	Kenwood
• Field	Watson Lane	• Murphy Lane	Portland
Hawthorne	Wellington	• St. Matthews	Sanders
• Hite		Shelby	Semple
Middletown		• Tully	
• Norton		• Wilder	
• Zachary Taylor			
• **KENNEDY**	• **KING**	• **MAUPIN**	• **MCFERRAN**
Camp Taylor	Gutermuth	Coral Ridge	Blake
• Cochrane	Hazelwood	Fairdale	Blue Lick
Layne	Johnsontown	Medora	Dixie
Stonestreet	~~Mill Creek~~	Mill Creek	• Frayser
Wilkerson	Trunnell	Rutherford	Gilmore Lane
• **PRICE**	• **RANGELAND**	• **WHEATLEY**	• **YOUNG**
Bates	Hartstern	Bowen	• Auburndale
• Fern Creek	Indian Trail	• Goldsmith	Breckinridge-Franklin
Klondike	Laukhuf	Jeffersontown	Chenoweth
Luhr	Okolona	Minors Lane	• Eisenhower
• Watterson	Slaughter	Roosevelt-Perry	Franklin
Wheeler	Wilt	Smyrna	• Kerrick

Audubon, Carter, Greathouse/Shryock, Schaffner, Brandeis and Brown are not placed in clusters because these schools enroll all of their students through the district's magnet school process.

• *Denotes Advance Program Centers. Students who are eligible for Advance Program will be assigned to an Advance Program Center in the Cluster in which they reside.*

Jefferson County Public Schools
1997-98 2002-03 Advance Program Student Assignment
Elementary School Clusters in Grades 4-5

	A Line	C Line
• Byck	Byck	Bloom
• Lincoln	Lincoln	Hite
~~Breckinridge~~	~~Byck~~	~~Byck~~
• Bloom	Bloom	Byck
Cochrane	Hite	Lincoln
• Field	Field	Lincoln
Hawthorne	Bloom	Byck
• Hite	Hite	Lincoln
Middletown	Hite	Lincoln
• Norton	Norton	Lincoln
• Z. Taylor	Z. Taylor	Lincoln

	A Line	C Line
• Foster	Foster	Foster
Atkinson	Foster	Foster
Greenwood	Foster	Foster
Kenwood	Foster	Foster
Portland	Foster	Foster
Sanders	Foster	Foster
Semple	Foster	Foster

	A Line	C Line
Maupin	Medora	Medora
Coral Ridge	Medora	Medora
Fairdale	Medora	Medora
• Medora	Medora	Medora
Mill Creek	Medora	Medora
Rutherford	Medora	Medora

	A Line	C Line
• Cane Run	Cane Run	Cane Run
Crums Lane	Cane Run	Cane Run
Jacob	Cane Run	Cane Run
Shacklette	Cane Run	Cane Run
Watson Lane	Cane Run	Cane Run
Wellington	Cane Run	Cane Run

	A Line	C Line
• Kennedy	Kennedy	Kennedy
Camp Taylor	Cochran	Cochran
• Cochran	Cochran	Cochran
Layne	Kennedy	Kennedy
Stonestreet	Kennedy	Kennedy
Wilkerson	Kennedy	Kennedy

	A Line	C Line
• McFerran	McFerran	McFerran
Blake	McFerran	McFerran
Blue Lick	McFerran	McFerran
Dixie	McFerran	McFerran
• Frayser	McFerran	McFerran
Gilmore Lane	McFerran	McFerran

	A Line	C Line
• Coleridge-Taylor	Coleridge-Taylor	Coleridge-Taylor
• Dunn	Dunn	Coleridge-Taylor
Engelhard	Coleridge-Taylor	Coleridge-Taylor
• Lowe	Lowe	Coleridge-Taylor
• Murphy Lane	Murphy Lane	Coleridge-Taylor
• St. Matthews	St. Matthews	Coleridge-Taylor
Shelby	Coleridge-Taylor	Coleridge-Taylor
• Tully	Tully	Coleridge-Taylor
• Wilder	Wilder	Coleridge-Taylor

	A Line	C Line
• King	King	King
Gutermuth	King	King
Hazelwood	King	King
Johnsontown	King	King
~~Mill Creek~~	~~King~~	~~King~~
Trunnell	King	King

	A Line	C Line
• Price	Price	Fern Creek
Bates	Price	Fern Creek
• Fern Creek	Fern Creek	Price
Klondike	Price	Watterson
Luhr	Price	Fern Creek
• Watterson	Watterson	Price
Wheeler	Price	Fern Creek

A Line = Resides School if it is an Advance Program School; If not Advance Program School, the A line = Feeder Advance Program School
C Line = Head of cluster with exceptions

• Denotes Advance Program Centers. Students who are eligible for Advance Program will be assigned to an Advance Program Center in the cluster in which they reside.

Jefferson County Public Schools
~~1997-98~~ 2002-03 Advance Program Student Assignment
Elementary School Clusters in Grades 4-5

	A Line	C Line
• Rangeland	Rangeland	Price
Hartstern	Rangeland	Price
Indian Trail	Rangeland	Price
Laukhuf	Rangeland	Price
Okolona	Rangeland	Price
Slaughter	Rangeland	Price
Wilt	Rangeland	Price

	A Line	C Line
• Wheatley	Wheatley	Bowen
• Bowen	Bowen	Wheatley
• Goldsmith	Goldsmith	Wheatley
Jeffersontown	Wheatley	Wheatley
Minors Lane	Wheatley	Wheatley
Roosevelt-Perry	Wheatley	Wheatley
Smyrna		

	A Line	C Line
• Young	Young	Young
• Auburndale	Auburndale	Young
Breckinridge-Franklin	Young	Young
Chenoweth	Young	Young
• Eisenhower	Eisenhower	Young
• Kerrick	Kerrick	Young

A Line = Resides School if it is an Advance Program School; If not Advance Program School, the A line = Feeder Advance Program School
C Line = Head of cluster with exceptions

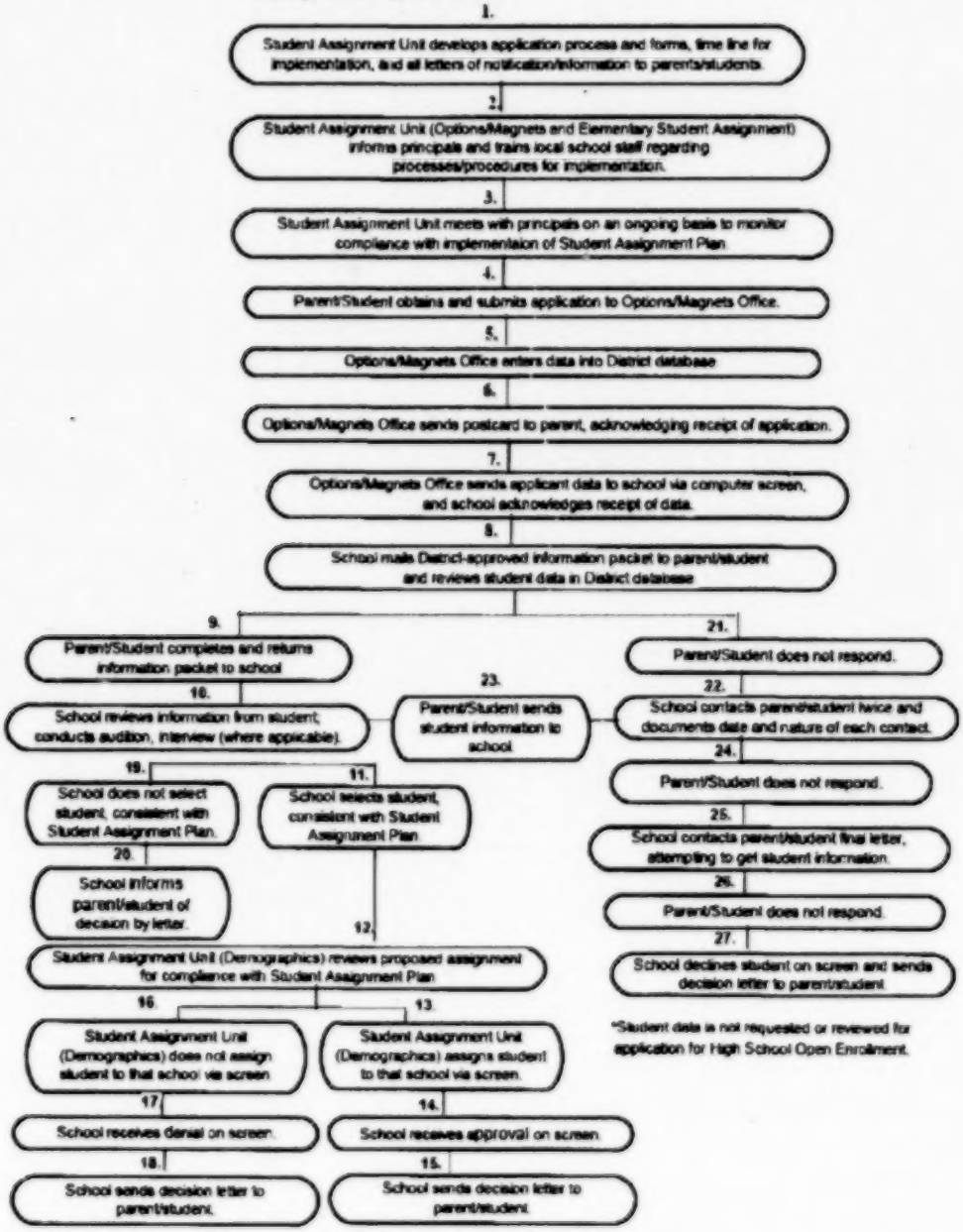
• Denotes Advance Program Centers. Students who are eligible for Advance Program will be assigned to an Advance Program Center in the cluster in which they reside.

Attachment D

Meyzeek Middle School will become an Advance Program Center for resides students as well as for Math, Science and Technology Magnet Program students.

Recommendation C4 Attachment E (1)

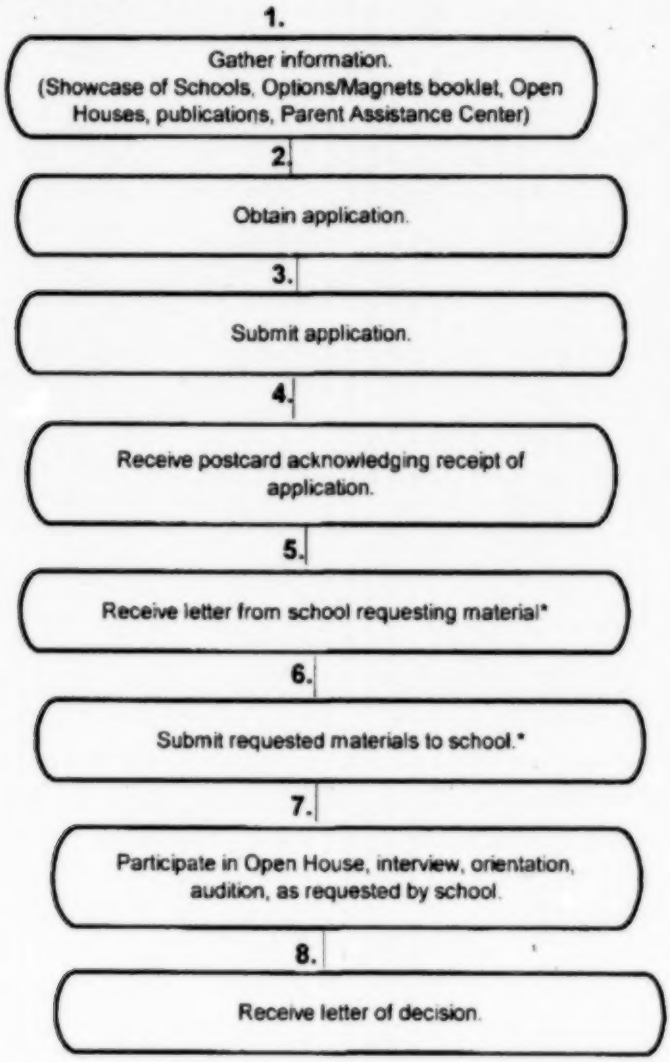
Centralized Process to Identify, Select, and Place Students in Optional/Magnet Programs and High School Open Enrollment*



*Student data is not requested or reviewed for application for High School Open Enrollment.

Optional/Magnet and High School Open-Enrollment Application Process for Parents

Attachment E(2)



*Student data is not requested or reviewed for application for High School Open Enrollment.

Selection Criteria For Optional/Magnet Schools Programs **Attachment E(3)**

I. Elementary Schools

A. Those schools listed on Attachment A of the Student Assignment Plan will use the criteria listed below. Other schools are not required to use selection criteria except to comply with de-segregation goals and building/program capacity.

B. If school uses selection criteria, it must develop a packet containing/requesting the following items and must have that packet approved by the Student Assignment Unit. A sample packet will be kept on file in the Student Assignment Unit, and a description of components of the packet will be published in District materials. Schools may use up to four of the following items only.

1. Student Information Form to include:
   a. Basic demographic information
   b. Program preference
   c. Checklist for materials to be submitted
2. Checklist about child for adult to complete —could be completed by teacher, child-care provider, or other adult significant in child's life
3. Copy of report card/progress report for students applying for P2 or above
4. Other items such as test scores, work samples and/or interview

II. Middle and High Schools

A. Those schools listed on Attachment A of the Student Assignment Plan will use the criteria

listed below. Other schools are not required to use selection criteria except to comply with desegregation goals and building/program capacity.

B. If school uses selection criteria, it must develop a packet containing/requesting the following items and must have that packet approved by the Student Assignment Unit. A sample packet will be kept on file in the Student Assignment Unit, and a description of components of the packet will be published in District materials. Schools may use up to five of the following items only.

1. Student Information Form to include:
    a. Basic demographic information
    b. Program preference
    c. Checklist for materials to be submitted
2. Survey and/or essay. If school uses a survey and an essay, the two must be combined on one form.
3. Two recommendations—one must be from a current school teacher, counselor, assistant principal, or principal, the other may be from any adult.
4. Copy of report card/progress report
5. Work sample and/or performance audition (where applicable)

C. School reviews student data from District sources. Schools may use up to three of the following items only:

1. Attendance
2. Course grades
3. CATS and standardized test scores

Optional/Magnet School/Program Exit Process

Attachment F(1)

1. Student Assignment Unit develops time line for implementation and all letters of notification/ information to parents/students.

2. Student Assignment Unit (Options/Magnets) collects data on number of exits and reasons for exits and works with principals to ensure that the exit process is reasonable and equitable.

3. Student Assignment Unit (Options/Magnets) meets with principals on an ongoing basis to monitor implementation of the exit process.

4. School develops and informs parents of criteria for exiting students, which are consistent with the program and are approved by the Student Assignment Unit.

Should student performance or behavior not conform to school expectations, the following steps will be implemented:

5. School notifies parent in writing about problematic student behavior or performance.

6. School may place student on probation following a conference with parent and student.

7. School sends parent a letter stating that student's status will be reviewed by school Exit Committee.

8. School's Exit Committee - consisting of school staff, excluding principal - reviews student's status.

9. School sends parent a registered letter stating that student is going to be exited from school.

10. Student Assignment Unit facilitates placement of student in another school.

If parent wishes to appeal the school's exit decision, the following process will be implemented:

11. Parent may appeal to principal.

12. Parent may appeal to director of Options/Magnets.

13. Parent may appeal to executive director of Student Assignment.

Jefferson County Public Schools
Optional and Magnet Programs
Documentation for Exiting Process
School Accountability

Attachment F (2)

Telephone No: 485-3323
Fax: 485-3936

Student's Name: _____ I.D. No: _____
Last First Middle

Race: _____ Gender: ☐ Male ☐ Female Grade: _____ Date of Birth: _____

Student's Address: _____
Street City State Zip Code

Parent's/Guardian's Name: _____ _____
Mother Father

Parent's/Guardian's Telephone No.: (1)_____ (2)_____ (3)_____
Home Work Emergency

Reassignment From: _____ _____ Telephone:_____
School Program Code

Person Submitting Reassignment Request: _____

Reassignment To: _____ Telephone:_____
School

Person Contacted at Receiving School: _____ Date:_____

Reason for Student Movement (Check as Appropriate.)

___ Address Change ___ Discipline ___ Academic Grades ___ Parent/Student Request

___ Transportation ___ Other: _____

Strategies the School Has Taken to Support Successful Participation:

- ☐ Conference with parent, students, and teachers
- ☐ Progress reports or report cards every three weeks
- ☐ Letter each six weeks for failing grade, with warning of possible loss of placement
- ☐ ESS (Extended School Services)
- ☐ Study Hall
- ☐ Tutoring Sessions (L.I.N.K., etc.)
- ☐ Saturday School
- ☐ Weekly Progress Report
- ☐ Academic Support Groups (Stars Club, etc.)
- ☐ Classroom Behavior Contract
- ☐ Assignment Log and/or Contract
- ☐ Progressive Disciplinary Actions as Appropriate
- ☐ ISAP (In-School Adjustment Program) and STOP (Suspension Truancy Off-Site Program)
- ☐ Other: _____

School Comments: _____

Parent Comments: _____

Appeal Process: _____

Parent's/Guardian's Signature: _____ Date: _____

Principal's Signature: _____

JA-96

Office of Student Services
Lam Building
4309 Bishop Lane
Louisville, Kentucky 40218
(502) 485-3340
Fax: (502) 485-3893

August 16, 2002

Dear Ms. Meredith:

After careful consideration, the Office of Student Services has disapproved your transfer request. The decision was based on the following:

1. The transfer would have an adverse effect on desegregation compliance of the School **(JCPS Board Policy: states that each school must be within 15-50% Range for its African/American enrollment for the 2002-2003 school year)**.

According to due process, you do have the right to appeal this decision. You may submit your appeal in writing, or you may present your appeal to the appropriate district personnel. The bottom portion of this letter is provided for your convenience in making an appeal.

Sincerely,

/s/ John Huggins
John Huggins, Ed.D
Assistant Director of Student Services

APPEAL FORM

Appeal should be filed within five (5) days receipt of the denial letter.

[ ]	Written Appeal	The decision will be based on information submitted in writing by the parent/guardian.
[ ]	Appeal with Hearing	The decision will be based on information presented in person by parent/guardian.

Mail to:
Student Transfer Appeals
Jefferson County Public Schools
P.O. Box 34020
Louisville, KY 40232-4020
Call (502) 485-3335 if you wish to
Schedule a hearing

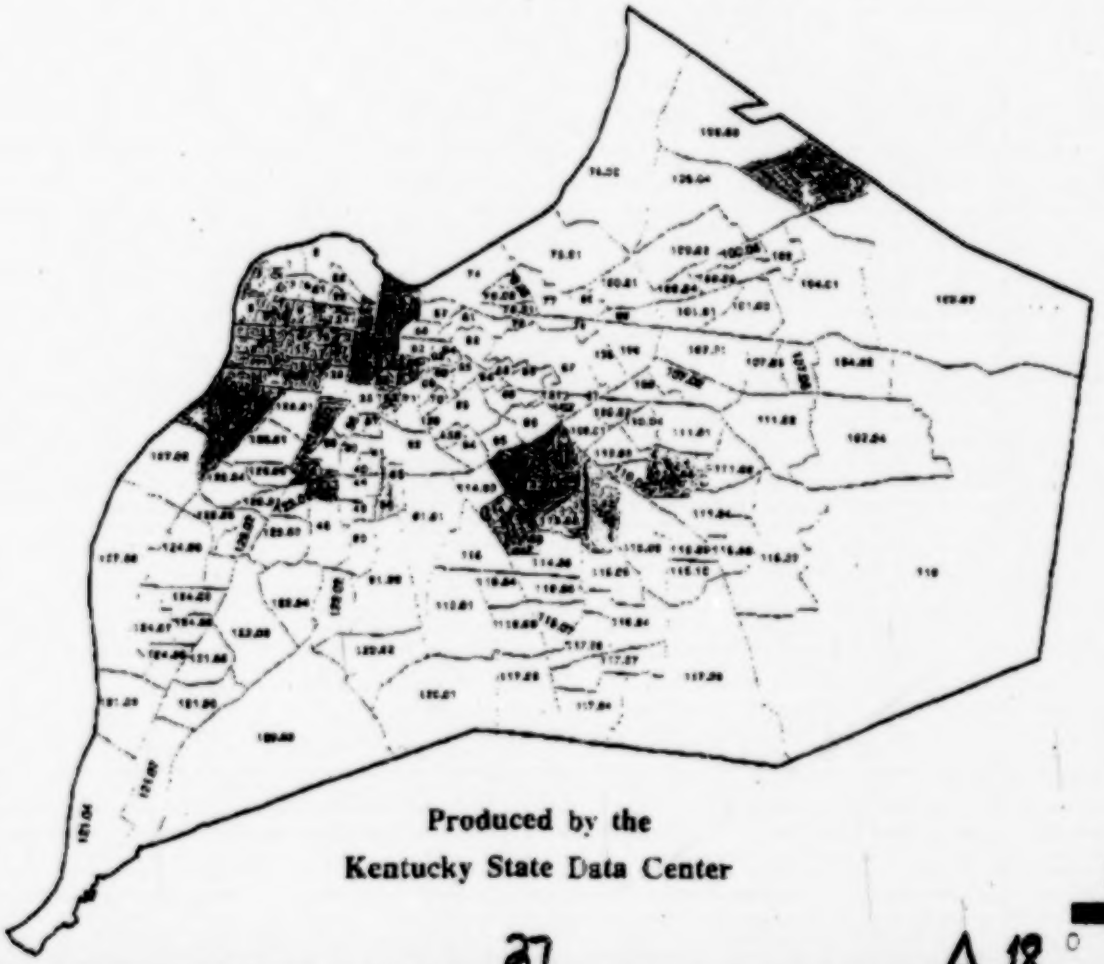
Ms. Meredith
1025 E. Caldwell
Louisville, KY 40204

Re: Joshua McDonald (WM)
Grade: Kindergarten (4-5-97)

Jefferson County

1990 Census Tracts

1990 Census Data: Total Population



≥ 20% B

60-79% B

40-59% B

20-39% B

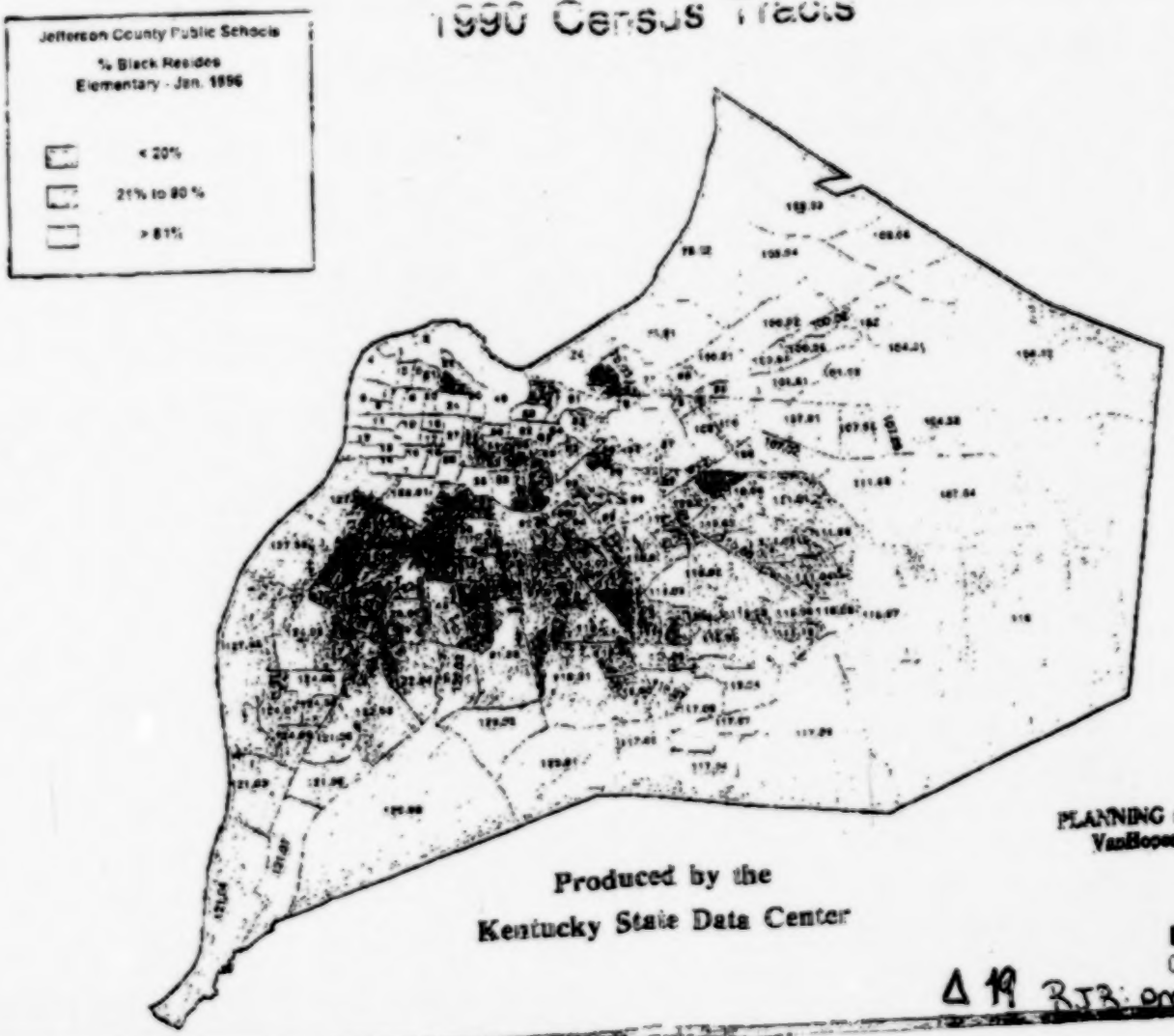
Produced by the
Kentucky State Data Center

Miles
0 2 4

27

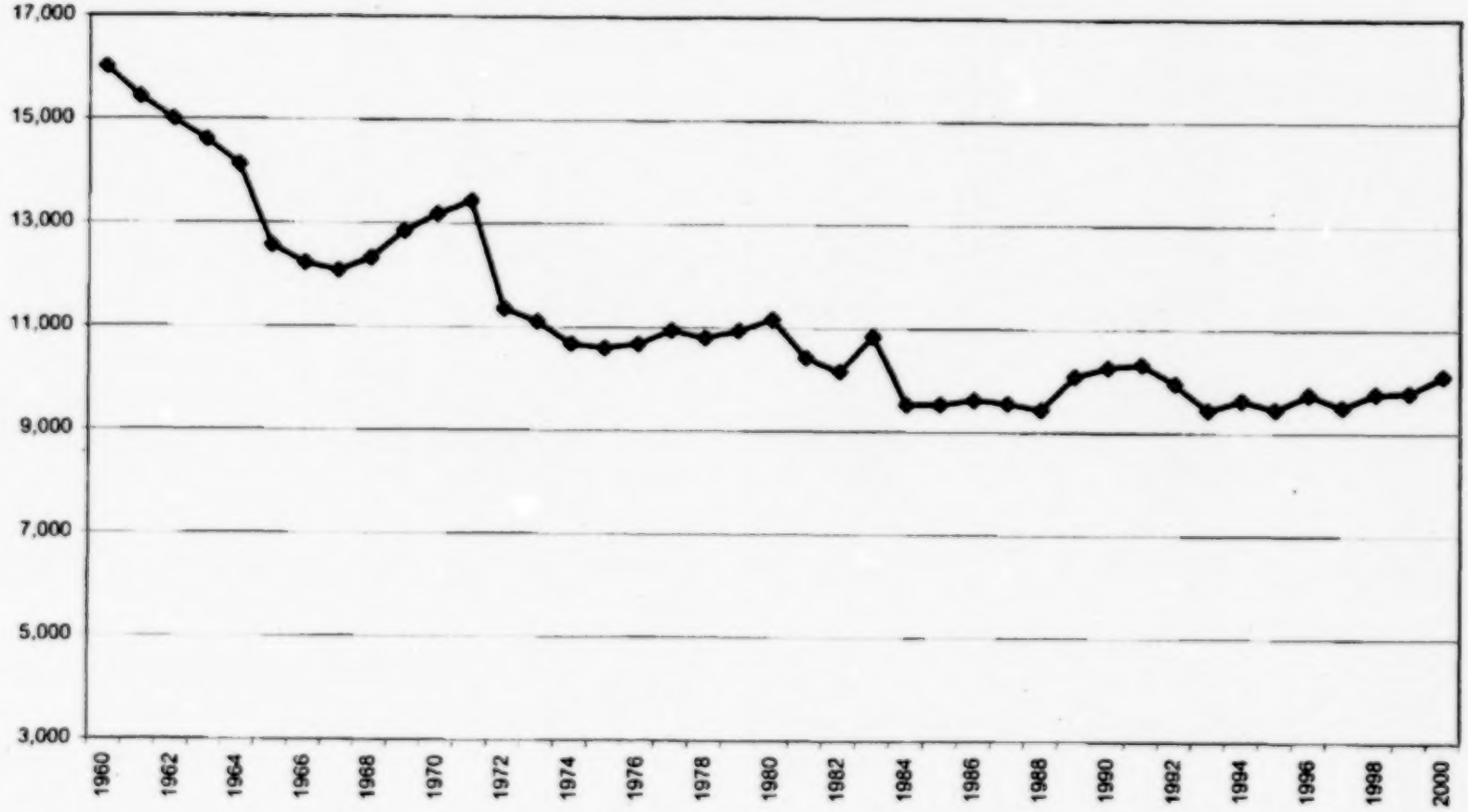
Δ 18

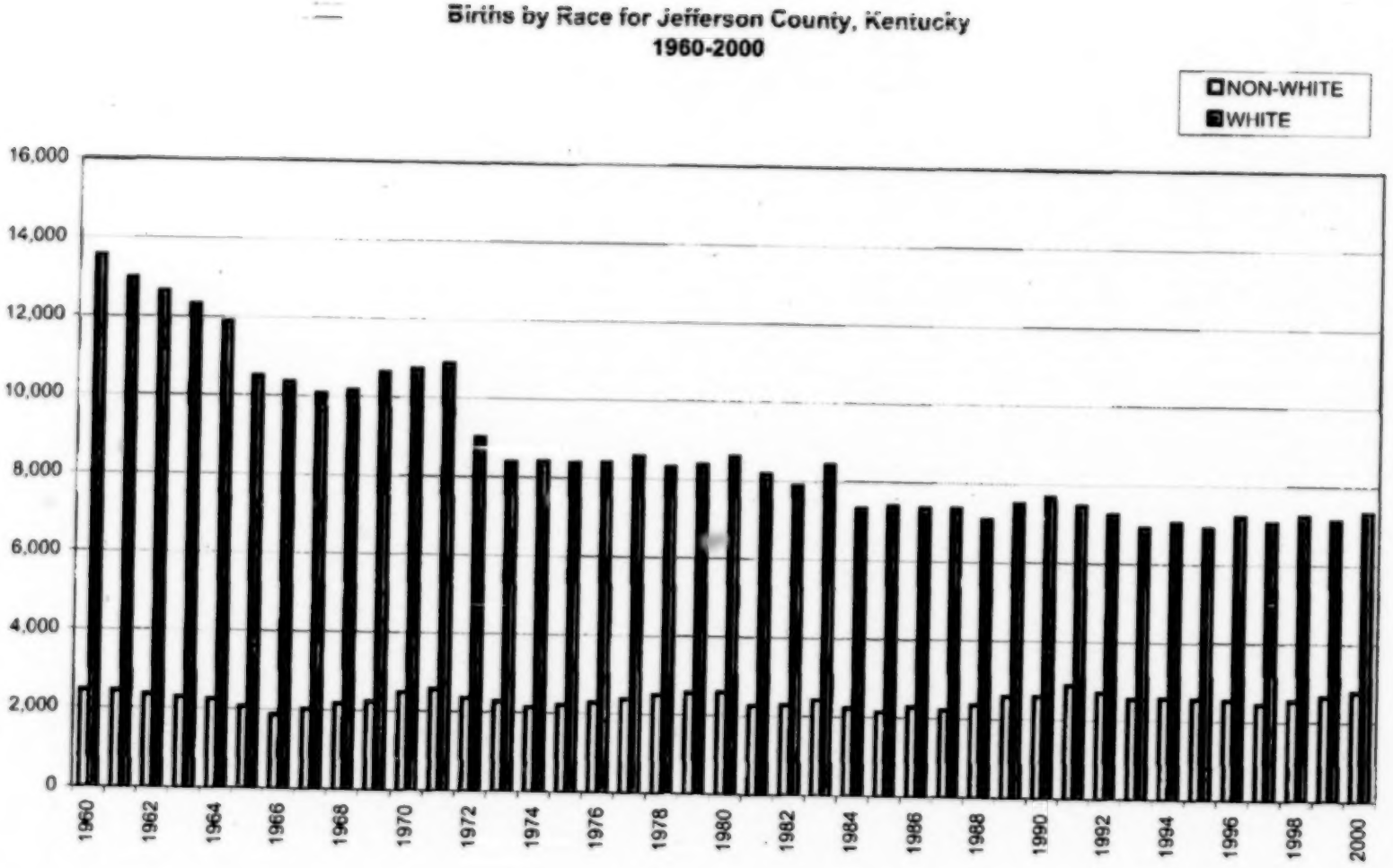
Jefferson County
1990 Census Tracts

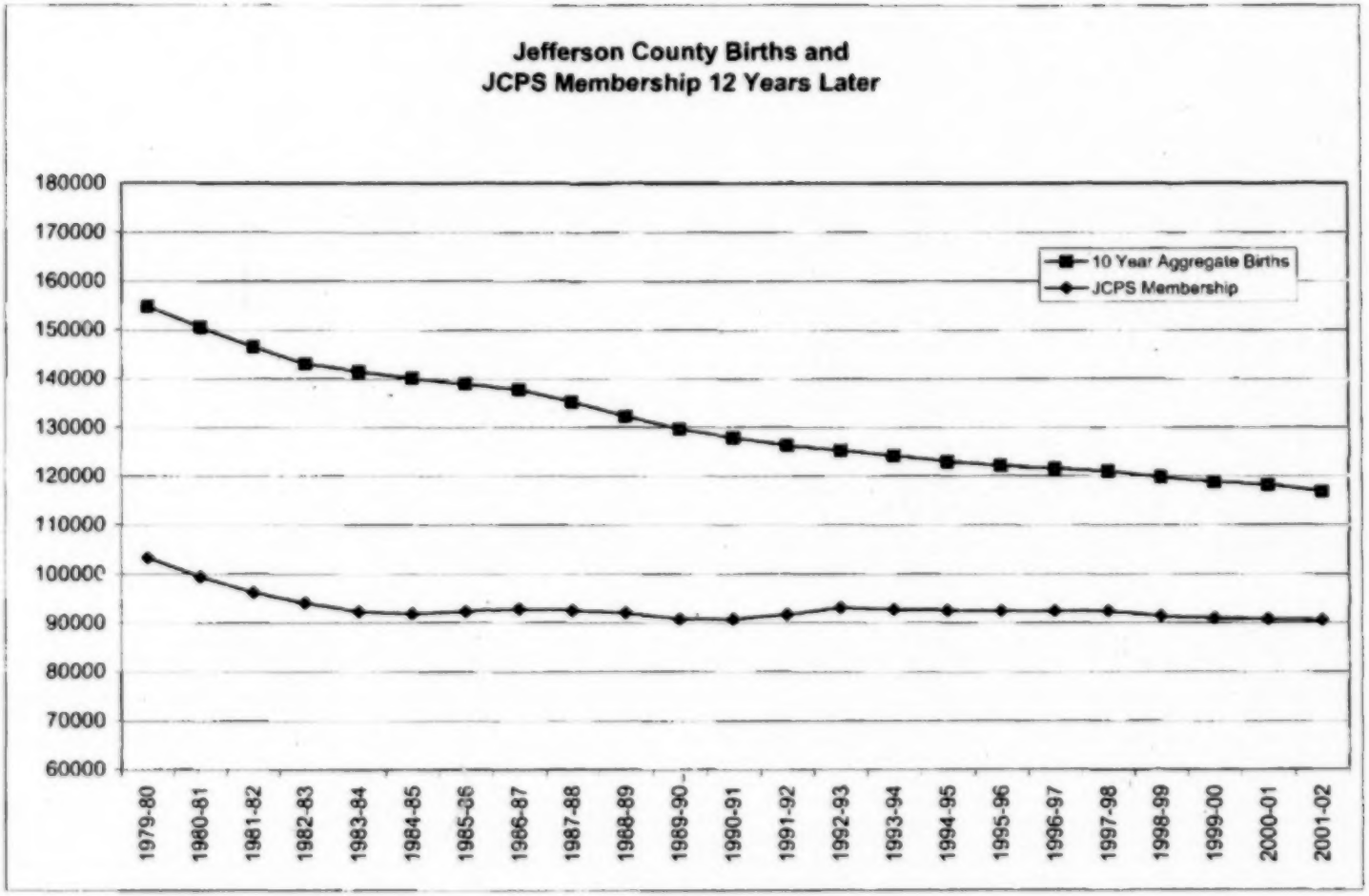


Δ 19 RJB: oms 2/26/99

Total Births for Jefferson County, Kentucky




Births by Race for Jefferson County, Kentucky
1960-2000
NON-WHITE
WHITE
16,000
14,000
12,000
10,000
8,000
6,000
4,000
2,000
0
1960
1962
1964
1966
1968
1970
1972
1974
1976
1978
1980
1982
1984
1986
1988
1990
1992
1994
1996
1998
2000


Jefferson County Births and
JCPS Membership 12 Years Later
180000
170000
160000
150000
140000
130000
120000
110000
100000
90000
80000
70000
60000
10 Year Aggregate Births
JCPS Membership
1979-80
1980-81
1981-82
1982-83
1983-84
1984-85
1985-86
1986-87
1987-88
1988-89
1989-90
1990-91
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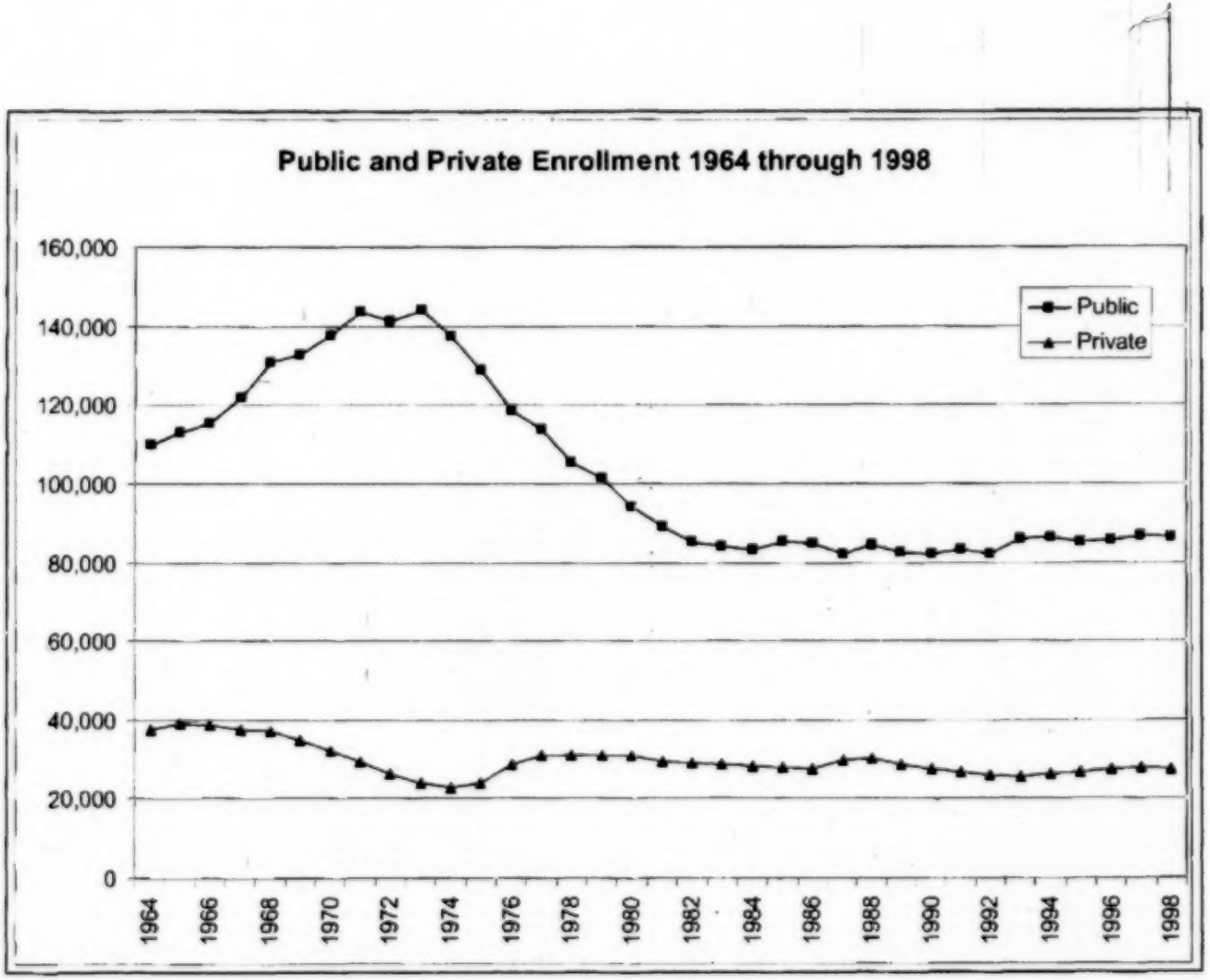
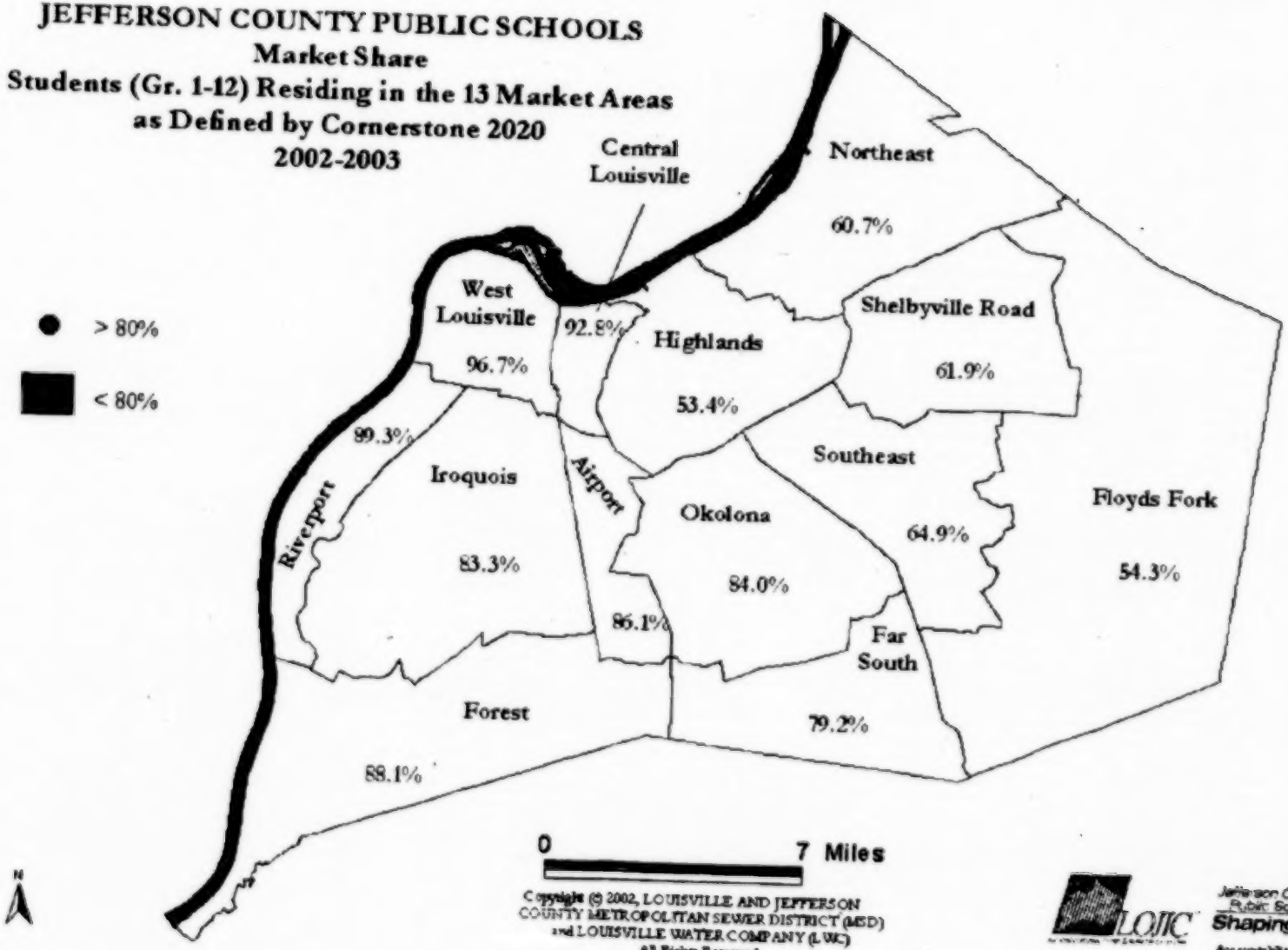
1993-94
1994-95
1995-96
1996-97
1997-98
1998-99
1999-00
2000-01
2001-02


Public and Private Enrollment 1964 through 1998
160,000
140,000
120,000
100,000
80,000
60,000
40,000
20,000
0
Public
Private
1964
1966
1968
1970
1972
1974
1976
1978
1980
1982
1984
1986
1988
1990
1992
1994
1996
1998

JEFFERSON COUNTY PUBLIC SCHOOLS
Market Share
Students (Gr. 1-12) Residing in the 13 Market Areas as Defined by Cornerstone 2020
2002-2003



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Jefferson County Public Schools
Shaping the Future
Accountability, Research & Planning
RJR: RSpm 6/6/2003

NOVEMBER 27, 2000

TO: BOARD OF EDUCATION
JEFFERSON COUNTY
PUBLIC SCHOOL DISTRICT

FROM: STEPHEN W. DAESCHNER
SUPERINTENDENT

SUBJECT: REPORT OF THE RESULTS OF THE STUDENT ASSIGNMENT PLAN PUBLIC INPUT PROCESS

RECOMMENDATION: I recommend that the Board of Education accept a report of the results of the Student Assignment Plan public input process.

RATIONALE: On July 17, 2000, the Board of Education approved a process for review of the current Student Assignment Plan. That process included:

- A formal parent opinion survey. This random sample survey was conducted by the University of Kentucky Survey Research Center.
- Five public forums conducted from September 26 through October 4, 2000, at which participants responded to the survey and were offered the opportunity to make comments.
- An opportunity for the public to respond to the survey on the Internet from September 25 to October 15 and via a telephone voice poll from September 26 through October 1, 2000.

The survey conducted among Jefferson County Public School parents by the University of Kentucky Survey Research Center shows the following:

- 97% of parents believe a student's education is enhanced when there is a variety of educational programs or schools from which to choose.
- 96% said they would send their child to a school outside of their neighborhood if the school offered a specialized program, not available at their neighborhood school, that meets their child's individual interest.
- 82% believe that students benefit in a racially integrated school environment.
- 77% of parents (89% African American) believe schools should have enrollment guidelines to ensure that children attend school with students from different races and backgrounds.
- 83% said a magnet school's enrollment should be made up of students from across the entire county.
- More than 75% of parents prefer that the assignment to magnet schools be based upon criteria that correspond to achievement rather than to a student's background characteristics.
- 73% said any changes in the District's Student Assignment Plan should cause little disruption for families.

The results from all survey methods were consistent.

Beginning November 28, 2000, staff will consider the results and prepare recommenddations. The approved timeline calls for staff to present the recommendations to the Board in March, 2001, to go into effect the 2002-2003 school year.

Elementary School Gaps
Difference in Percent Proficient and Distinguished Performance in Reading Between:

	2002	2003
• Disability vs. No Disability	-29%	-24%
• F/R Lunch vs. Paid	-32%	-27%
• Afr-Am. vs. White	-26%	-23%
• Male vs. Female	-11%	-10%

Middle School Gaps
Difference in Percent Proficient and Distinguished Performance in Reading Between:

	2002	2003
• Disability vs. No Disability	-43%	-39%
• F/R Lunch vs. Paid	-34%	-30%
• Afr-Am. vs. White	-29%	-25%
• Male vs. Female	-16%	-16%

High School Gaps
Difference in Percent Proficient and Distinguished Performance in Reading Between:

	2002	2003
• Disability vs. No Disability	-29%	-25%
• F/R Lunch vs. Paid	-25%	-25%
• Afr-Am. vs. White	-24%	-23%
• Male vs. Female	-13%	-13%

Elementary School Gaps
Difference in Percent Proficient and Distinguished Performance in Math Between:

	2002	2003
• Disability vs. No Disability	-24%	-22%
• F/R Lunch vs. Paid	-31%	-28%
• Afr-Am. vs. White	-26%	-26%
• Male vs. Female	-1%	-2%

Middle School Gaps
Difference in Percent Proficient and Distinguished Performance in Math Between:

	2002	2003
• Disability vs. No Disability	-22%	-23%
• F/R Lunch vs. Paid	-25%	-28%
• Afr-Am. vs. White	-22%	-26%
• Male vs. Female	-1%	-1%

High School Gaps
Difference in Percent Proficient and Distinguished Performance in Math Between:

	2002	2003
• Disability vs. No Disability	-31%	-29%
• F/R Lunch vs. Paid	-31%	-28%
• Afr-Am. vs. White	-31%	-31%
• Male vs. Female	0%	+3%

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
LOUISVILLE DIVISION

Case No. 3:02-CV-620-H
December 8, 2003
Louisville, Kentucky

DAVID MCFARLAND, Parent and Next Friend of Stephen and Daniel McFarland, *et al.*,
Plaintiffs,

vs.

JEFFERSON COUNTY PUBLIC SCHOOLS;
JEFFERSON COUNTY BOARD OF EDUCATION;
STEPHEN W. DAESCHNER, SUPERINTENDENT.
Defendants.

TRANSCRIPT OF HEARING
BEFORE HONORABLE JOHN G. HEYBURN II
UNITED STATES CHIEF DISTRICT JUDGE

APPEARANCES:

For Plaintiffs:	Teddy B. Gordon 807 West Market Street Louisville, KY 40202
For Defendants:	Byron E. Leet Francis J. Mellen, Jr. Wyatt, Tarrant & Combs, LLP 500 West Jefferson Street, Suite 2800 Louisville, Kentucky 40202-2898
For NAACP Legal Defense & Educational Fund Inc:	Chinh Quanq Le 99 Hudson Street Suite 1600 New York, NY 10013

* * *

[1-77] (CAROL HADDAD, called by defendants, sworn)

* * *

[1-78] Q. Miss Haddad, tell the Court a little bit about yourself.

A. Well, I am married to Attorney Robert Haddad. I have two children and four grandchildren. My two children attended public schools in the seventies with merger and desegregation. I now have four grandchildren in public schools, one at Wheeler, one at Newburg, and two at St. Matthews Elementary.

Q. How long have you lived here in Jefferson County?

A. All my life.

Q. Tell us about your experience with the Jefferson County Public School System. When did you first have some involvement with the school district?

A. I got on the Board in '75—in '76 as a result of merger and desegregation of the public schools, and then I went—I was on four years, went off 10 years, and came back in 1990 and have been on ever since.

Q. Describe the district that you represent on the School Board.

A. I think I have the most diverse district. It starts at Audubon Elementary, it goes out Preston Highway past Male to Southern, and comes back in and goes by Newburg, Indian Trail, downtown to Shelby and Breckinridge Metro School.

* * *

[1-81] Q. Do you personally believe in the importance of desegregation, Miss Haddad?

A. I really do.

Q. Why?

A. Well, I believe for the children today—when my children—they were in segregated schools, and then when the merger and desegregation came and they were put into

desegregated schools, they thrived, and now my grandchildren, who are now in the public schools, we are starting to see some of the things we wanted to accomplish back in 1975 because they could not understand why you would ever have a school that didn't have diversity. So many of their friends are—they bring them home with them, African American, Spanish. So they don't understand what all the problem would be. They couldn't understand having a school system that didn't have all kids in it.

Q. Based on your, what is the total now, about 18 years in public service on the School Board?

A. 18 years, or abuse.

Q. However you term it, do you have an opinion about what the public opinions are toward desegregation in this community today?

A. Well, definitely. I think that—we had our Showcase down at the Convention Center in November. We had between eight and 10,000 people who came down to make choices for their children. I remember when we did Renaissance in 1991, people were upset because they had to make a choice for their children. Now, years ahead of time people are going down there and looking at schools so that they feel like they have a say in what's going on with their children's education. So it brings the community together to make decisions for the children's education.

Q. Ms. Haddad, were you present for the previous trial in the Hampton case involving primarily Central High School?

A. Yes.

Q. Did you get calls from constituents in your district while that case was going on or in the wake of that decision?

A. No. It really surprised me. I thought that I would—with all the hoopla we had in '75 that I would get a lot of phone calls saying let's all go back to our neighborhood schools. I did not get one call. I was very present out there that people would have called me had—they call me for a lot

of other things. But I didn't get any calls. So people said that was fine with them.

Q. They don't have—people don't have any trouble calling you if they have got something they want to complain about?

A. No. They never call to thank you. Once in a while, but not often.

* * *

[1-84] Q. Now, in your judgment, Ms. Haddad, are Audubon and Male better schools than the other schools in your district?

A. I disagree with that. I don't agree with that. I'll tell you why. I have a grandson who applied to the Traditional School, Audubon, because it was in his neighborhood, and he didn't get in. So as a result they made other choices, and they chose St. Matthews Elementary School, which is a 20-minute drive, and they love it. They are excelling. They are in the advanced and gifted and talented. They have language, and they have a lot of advantages Traditional Programs don't have.

Q. Let me ask you something. You said your grandson applied to go to Audubon. Did that happen while you were on the School Board?

A. Yes, sure did.

Q. Did it happen while you were the chair of the School Board?

A. Yes, it did.

Q. And yet your grandson didn't get in Audubon?

A. No. He followed the process.

Q. You couldn't get him in Audubon?

A. No. He had to do what everybody else had to do.

* * *

[1-88] Q. Ms. Haddad, based upon your some 18 years of service on the School Board, do you have an opinion about

what will happen to student assignment in this district if the School Board is prohibited from considering race at all in student assignment?

A. I think we will go back to a segregated system, back to the pre-'75 days. I think you will have pockets of poverty, and I think that will be a disaster. I think the kids today in this world, they are so global and our population has changed, and I think if you take the diversity out, you do an injustice to the kids because today more than ever they need to be in a diversified population.

Q. Ms. Haddad, during the plaintiffs' case, we heard some testimony about two schools and a suggestion that two schools were not good schools in the district. The two specifically were Wheeler and Newburg. You don't happen to have any family members that attend—

A. Yes. I have two grandchildren. My granddaughter went to Wheeler. She is now in Newburg. When she took the 4th grade test, she was distinguished, as were others at Wheeler, and at Newburg she is doing excellent. She is 4.0. I think the reason they probably couldn't get in Newburg was because it's overcrowded. They have over a thousand kids, people wanting to get into the school. It's excellent. There's not any safety problems in that community at all. I go out there all the time.

Q. And you have family members both—or a family member in both Wheeler and in Newburg?

A. Exactly. I have a grandson in the 4th grade at Wheeler who is doing excellent, has excellent teachers. I think it's what goes on in the building. I think that we have so many teachers that are so dedicated to kids. I think to put a label that some of these schools aren't good because they don't have a certain number is wrong because we are dealing with a lot of different kids and we are trying to get all kids to be where they need to be.

* * *

[1-104] THE COURT: Well, I suppose it's not the objective, is it, of the School Board to have the test scores of all the schools be equal, certainly not precisely?

THE WITNESS: No. It's to meet the needs of every individual child. We are working to make all kids successful. It's at different levels. We are working to make sure they all get to where they need to be.

* * *

[1-111] (DR. STEPHEN DAESCHNER, called by defendants, sworn)

* * *

[1-113] Q. How many years have you been with the Jefferson County Public School System?

A. This is my eleventh year.

Q. I don't know that we said this. What's your title?

A. I'm Superintendent of Schools.

Q. Did you have any knowledge of this school district's efforts in the way of desegregation prior to coming to Jefferson County?

A. Yes, I did. I've been connected with desegregated schools for a long, long time, even to the fact that before I came here, was very familiar back in 1975 with what generally this district went through. We were doing the same thing when I was in St. Louis. We had a huge desegregation court order that was very similar to Louisville. In fact, I even traveled, that's when the office was over in the Brown Building, and met with staff here to discuss issues of desegregation.

Q. Does desegregation matter to you personally based upon your years as an educator and currently as a superintendent of the school system?

A. Very much so, yes.

Q. Why?

A. I think you always, and what I have heard today, you always have to start with your own kids. I choose to start there. I have four wonderful children. They are quite split in age group. I have a 35 and a 33-year-old that were basically educated in Alaska, currently employed. They e-mail me once a month. That's about right. I currently also have two children, and that's a 7th and 8th grader. They go to Kammerer Middle School, which is in our district. It is very important for my wife and I and for those kids to be educated in a very diverse school system. I think it adds to their education. It adds to their experience. I think I take that forward and believe in that very much as a personal basis that diversity is very important for our students today. They will graduate into a diverse pluralistic society that we all live in. We are going to have to deal with that as adults I believe very much so.

* * *

[1-120] THE COURT: Can I ask a question? We have all looked at the statistics, and some of the statistics show that the scores, irrespective of what tests you happen to be looking at, if you look at the median score on some of these schools, and some of them are Traditional, that those scores are somewhat higher than other schools you could select out. Some people would say, well, that means it's a better school. How do you reflect on that?

THE WITNESS: Thank you, Your Honor. First of all, I'm going to talk about scores are a sum of the accumulation of individual scores. Those individual scores can reflect lots. If I broke out, for example, the Traditional Schools let me say by SES, socioeconomic, and I take another school's scores, let's just pick my kids' Kammerer, by SES, you'll see no difference. So if you equalize by some parameters, you'll get same scores or better scores.

The second thing I would like to say is it's the individual student that's of the advantage and the individual. Within that we are trying to gain scores -- you talked to this earlier. In my opinion, I can't do a terrible lot about history, although I've been here a long time now. What is very much of a concern to me is tomorrow, and I'm after gain. I call it value-added, which is sort of the question you asked, how is this student doing next year, year after, year after, year after, year after. That's called value-added education. We have some data that the value-added education is probably superior in schools other than Traditional.

I need to kind of bring this home. We don't have the option of the children that we receive. Our largest distribution is at Kindergarten. That's before we ever see them. It's due to the way the parents give their children to us. The honest fact is based on the 2000 Census data as an example, if this student comes to us with two parents that have read to them, done a wonderful job for them in the preschool, nourished them and are carrying say a 4,000 to 5,000-word vocabulary when we got them at Kindergarten, the question is how much do we advance those next year, next year.

I'm going to give you another set of kids—both of these are actual—that may not even have been with parents, maybe raised by grandmother or grandfather, single-parent families. Some are great, but they generally could come to us—and by the way, 82 percent of our African-American population comes to us from single-parent families based on the 2000 d[illegible]—come to with us with a vocabulary of about 500. That's at Kindergarten. That's before we see them. Our job in public education is try to drive those two sets to get that lower set, if you will, to gain and yet keep that other set.

What we see as we move kids along, our data will show you that that child that has that 500 will outgain, will never overcome in many cases, but will outgain the other child that comes to us with the 4,000. So you see trying to paint a

picture of that individual child. As it goes along, we begin to reduce the gaps between our African-American children and our other. We begin to reduce the gaps between our SES and other, which means that the gap data, we have it, don't deny that, yet it's how parents give their children to us, and then we drive forward to reduce that a little bit at a time. I think it would be wonderful if the community would give us all the children with the same vocabulary or the same learning. They are bright kids, every single one of them. That's what the data shows in our district.

* * *

[2-64] (PATRICIA TODD, called by defendants, sworn)

* * *

[2-131] Q. There have been some—there's been some discussion about the races under the Student Assignment Plan and under the race guidelines in the Board Student Assignment Plan. As I understand it, the school district looks at African-American and then it looks at all other. Those are the only two races that are considered, is that correct?

A. That is correct.

Q. Why does the district look at it that way? Why doesn't it include other races in the break-out of racial composition?

A. There are a couple of reasons for that. One of them is a historical perspective. The plan is still reflective of the '75 Plan in which the issue was about discrimination for African-American or black children. And so our plan continues to reflect the evolution of the original plan from '75. The second reason and I think is a very important reason in terms of student enrollment in the general public schools, only 5 to 6 percent of that population is due to other races or ethnic backgrounds. So while they are still an important part of considering diversity and the social benefits and the academic benefits, they are definitely a very small part of our student

population. So in this community, for this school district, it is still largely a question of black and white.

Q. What is the average African-American enrollment in the Jefferson County Public School System?

A. At the elementary level it is about 36 percent. At the middle school it's about 36 percent. At the high school level it's about 31 percent. The average is about 34.

* * *

[2-133] Q. Tell the Court about how the 15/50 guidelines evolved and how we arrived at those numbers.

A. All the previous plans to the 1996 Plan, the guidelines were based on the percentage of African-American enrollment at each—at the respective level, elementary, middle or high school, and that meant for the school district and for parents in the community there were three sets of racial guidelines. One of the things that we recommended as a result of community input in the 1996 Plan was to have all three levels be within the range of 15—no less than 15, no more than 50 percent African-American. We had been hopeful that this would permit more African-American children to be able to choose to stay home as their first choice and be able to do so. But I will tell you that all—from '75 on there have been critics who have complained that either the racial guidelines are too tight or the racial guidelines were too loose. I think one of the challenges for district staff and the Board of Education has been to find a range of guidelines that seems to make sense to the community and to work well for the vast majority of parents.

Q. Ms. Todd, do you believe that a majority black school must be an inferior school?

A. Absolutely not.

Q. Then why does the school district have race guidelines that prohibit a majority black school in this district?

A. Well, first of all, we believe in the benefits of a desegregated learning environment, and that that translates to

academic opportunities for all children. Two, we believe that in order to prepare our kids for work in our community or any other community, they are largely going to be encountering diverse work places, and so we feel like there is a social benefit as well as an academic benefit. Thirdly, if you are going to believe in those two things and have a Student Assignment Plan and a Board goal that specifically identifies the importance of desegregation and integrated learning environments, then you need a yardstick by which to measure whether or not you are achieving that. Without that yardstick, I really would not have any moral authority to be able to make the Student Assignment Plan be successful.

* * *

[2-143] Q. Based upon your work in student assignment in the school system, do you have an opinion about what would happen to the racial composition of the schools in the JCPS system if the district was prohibited from considering race in assigning students to schools?

A. Yes. Based upon my experiences, I believe that essentially we would resegregate as a school district and that that would be detrimental to the educational program and social benefits that the plan provides.

Q. Do you have an opinion about what would happen to the racial composition of the schools if you could consider race but you couldn't use the guidelines of 15 to 50 percent?

A. Yes. That gives me an amount of authority in which to facilitate, negotiate and work collaboratively with principals and district staff in order to ensure that the plan is implemented.

* * *

[2-166] Q. Ms. Todd, how substantial is the impact of the race guidelines in the district's Student Assignment Plan and in the assignment of students who are subject to those race guidelines throughout the system?

A. In my opinion there is a minimal impact.

Q. What's the basis for your saying it's a minimal impact?

A. Well, when you look at the data, I think that you will find that essentially most elementary school students choose to stay at their resides school, and that at the middle school and high school level about half are at their resides school. That does not mean some folks do not get impacted, but I believe it to be a minimal impact.

Q. The primary tool that you use at the elementary school level is what?

A. The cluster system.

Q. The primary tool at the middle and high school levels is what?

A. The contiguous and noncontiguous boundaries.

Q. If you are a middle or high school student, you have a right to apply to how many other schools other than your resides school?

A. We are at middle and high?

Q. Yes.

A. All right. You have two choices to a Magnet or Optional Program. So there would be two. As a 9th grader, you would have open enrollment, which would be the third. And you also have the opportunity to transfer, and there are no limitations to how many transfer requests that you can make.

Q. Of those middle and high school students who do apply to exercise a choice, what happens to most of them?

A. Most of them would get their choice.

Q. Looking at the plan as a whole—let me back up a second. We have talked about 97,000 students throughout the system. What's the number of students who are in the system and subject to the race guidelines in the plan, approximately?

A. I think it's about 87.

Q. All right. 87,000 students.

A. 87,000, correct.

Q. Looking at the plan as a whole, are substantial numbers of students denied acceptance to their choice school because of their race at the middle and high school level?

A. No.

Q. If any middle or high school student is denied acceptance to a school of his or her choice because of race, what harm does that student suffer?

A. As I stated earlier, because of the comparability of the curriculum, instruction and the funding system, I do not believe that there is any harm to any student.

Q. Do you have any information about whether the majority of elementary school students end up attending their resides school in the system?

A. I think Dr. Rodosky is going to show us some data that says the majority of them do.

Q. All right. Now, again, the choice options that elementary students have are what?

A. Essentially they have four choices in terms of two cluster choices, two Magnet Option choices, and then, again, they also have the option to use transfers and there's no limits on that.

Q. And if there is an elementary school student out there who didn't get his or her choice because of race guidelines in the plan, what harm does he or she suffer?

A. Again, I do not believe that there is any harm based upon curriculum, instruction, funding issues, comparabilities.

* * *

[2-194] Q. Joshua McDonald was not accepted into Breckinridge Elementary School for 2002-2003, is that correct?

A. That's correct.

Q. As I understand it, he applied for a transfer to Bloom?

A. Correct.

Q. Why was his application for transfer denied?

A. The letter indicated that it was for race.

Q. So you don't dispute that?

A. No.

Q. Race was the factor in that—

A. The denial of that transfer.

Q. Did he have a right to appeal that decision?

A. Absolutely. And the letter denying the transfer indicated that.

Q. Did he appeal?

A. No.

Q. Did he apply to get out of Young?

A. No. Between the Kindergarten and 1st grade year there was, again, an opportunity to fill out a cluster application and to ask for a different school, and that did not occur.

Q. Now, there was some suggestion that there might have been transportation issues with getting to Young Elementary School. Would this child, Joshua McDonald, have been entitled to transportation to Young Elementary School?

A. Absolutely.

Q. The primary talent pool at Bloom, there was an indication that that's what the family wanted at Bloom. Is Bloom the only school that has a primary talent pool?

A. No. As I indicated earlier, that is an opportunity at elementary schools as a result of KERA.

Q. Is it your judgment that Joshua McDonald is receiving an inferior education at Young Elementary compared to what he would have received at Bloom?

A. No.

* * *

[3-23] (LOUDENA PEABODY, called by defendants, sworn)

* * *

[3-24] Q. What's your job?

A. Currently I am Director of Instructional Support, and my main responsibility is that I coordinate the training for 64 district resource teachers who go into the schools and provide

either school-based professional development or in-the-classroom coaching.

Q. How many years have you been employed by the Jefferson County Public School System?

A. 25 years.

Q. All right. Tell us generally what different jobs you have held in the JCPS system over those 25 years.

A. I've been a teacher at all three levels. I have also taught in special education and regular education, a guidance counselor and an elementary principal for eight years. I've been in my current position, this is my third year.

Q. Teacher at all three levels. Where did you teach at the elementary school level?

A. Taught at Crums Lane Elementary, and I taught at the Binet School, and then I taught at Crosby Middle School when I taught middle school and then also at Seneca for high school.

Q. Okay. You said you were a principal for eight years. Where were you principal?

A. At Minors Lane Elementary.

Q. If you would, describe your experience as principal of Minors Lane Elementary over those eight years. What was that school like when you arrived there?

A. I was—I became principal there in 1993, and at that time our test scores, our CATS scores were at a 24. So we were identified as a school in decline. That's what it was called then.

Q. 24 out of what's the total?

A. On a scale of like 100.

Q. Out of a 100, Minors Lane Elementary was a 24 when you arrived?

A. Correct.

Q. Describe, if you would, something about the school. First of all, where is it located?

A. It's located between Okolona and Fairdale, which is in the southern part of Jefferson County. It has two trailer parks

in the area and then a very small, like neighborhood, which during that time the first year—the first year there at Minors Lane the airport expansion began, and so the people who owned homes in the neighborhood began to either move or their property was bought by the airport. So that continued also over that eight-year period.

Q. What was the percentage of free and reduced lunch at Minors Lane Elementary?

A. It ranged from 76 percent to 80 percent.

Q. All right. What was the percentage of African-American enrollment at Minors Lane Elementary?

A. When I began at Minors Lane, there was 17 percent. We only had two African-American families in the neighborhood. And when I left, the African-American representation was 26 percent.

Q. So it actually increased while you were there?

A. Yes.

Q. I don't know that we identified the eight years that you were at Minors Lane Elementary. When did you start?

A. 1993 to 2001.

Q. When you left in 2001, what was the school index then?

A. 81.

Q. So it went from 24 to 81 in your tenure?

A. Correct.

THE COURT: Is that the academic index?

THE WITNESS: Yes.

BY MR. LEET:

Q. How did it come about that the African-American enrollment changed from 17 percent to 26 percent during your tenure there?

A. Well, we are in clusters. Wheatley is the head of the cluster. I had been counselor at Wheatley Elementary. So I was familiar with the neighborhood and the students there.

So what I did is I went down in August of every year and did an orientation with the incoming families. At that time they had not chosen what school they wanted to attend, and what I did is I told them about Minors Lane and talked a little bit about the bus ride and parent involvement and the activities that we had for students. So when it did come up for them to choose, hopefully they chose us. And then what happened is over the years because our scores went up and activities, then families in the neighborhood would tell other families that moved in, and so that's why our increase in African-American population.

* * *

[3-30] Q. Based on your 25 years of experience as an educator, a person who has taught at all three levels within the school system, has been a counselor, now Director of School Support, do you believe that low SES students, let's just say it, poor students in this school district can learn and can achieve?

A. Yes. Absolutely.

Q. If that's true, then in your judgment why do you need race guidelines as part of the Student Assignment Plan?

A. Well, I'm real supportive of integrating our schools because I think that's the way our society is. It becomes more and more integrated. So I think our schools need to reflect what society looks like. I think it gives students greater exposure to diversity. It helps students become more socially and emotionally educated. I think if we had segregation, you would miss out on those three components in education.

* * *

[3-56] (SAM CORBETT, called by defendants, sworn)

* * *

[3-58] Q. From your perspective, Mr. Corbett, as a former member of the School Board and as a businessman and community leader today, do you have an opinion, a view, about the importance of diversity in the school system and in the schools?

A. I do, and I would say that my perspective is not as much from being a previous Board member or even a business person in Louisville, but more as what I would define as a consumer of the product and one who has approximately 200 employees, many of whom consume the product either with their children or their grandchildren. I sell for a living so I tend to look at everything from that perspective and from my perspective as consumers. In my case with my youngest son a senior in high school in a Jefferson County school and my employees who have, as I mentioned, children and grandchildren, I tend to look at what's the benefit of having diversity within the buildings to the people that work for me to my own children, to my friends and their children.

And I guess I can only point to the situation I have in my own business where today a third of our work force is white, a third of our work force is African-American, a third of our work force is Hispanic. Five years ago we had a significant Vietnamese population. I know we all talk this and it sounds good, but from a practical standpoint if we want our children to live and work in a world where they are going to be dealing with people who don't necessarily look and/or sound like they do, then what better way to prepare them for that than to be in that setting in the school building because they are going to get it in the workplace, and my company is a perfect example of how that's going to happen.

* * *

[3-60] Q. Mr. Corbett, have you participated in any urban workshops in connection with Greater Louisville, Inc., GLI?

A. I have three or four times in the last 10 years.

Q. Has your participation in those workshops exposed you to other cities, other metropolitan areas around the country and how they may compare or contrast with Louisville?

A. It has. That's one of GLI's goals is to visit cities that are similar in nature to Louisville.

Q. When you have been involved in those workshops in those GLI matters, people come to Louisville. Are you proud of the school system that we have here and do you advertise that to the people that come into town?

A. Obviously I am, but I think GLI and the leadership of the community is, too, because many of us have been involved in presentations when groups are visiting where we are asked to participate and talk about what's going on in JCPS. It starts with Mayor Abramson because he is a fan, is a former PTA president at his child's school when he was not in office. So there's a lot of community support for what's going on with JCPS.

Q. Based on your experience, is that true at all other cities?

A. Well, no. I mean clearly a perfect example, one year GLI went to Cleveland, and Cleveland did everything they could, the people that were presenting to GLI, which I assume represented the leadership or part of the leadership of that community, they did everything they could to talk—to not talk about what was going on with their school system. They had—to define their system as a school system in crisis would be somewhat of an understatement, and this is their city system. They have many other systems through their suburbs. Their Cleveland School System was in such disrepair that those people almost—not almost, they apologized for what was going on and acted as if, well, we are going to do better. We don't want to talk about it.

* * *

[3-71] (DR. ROBERT RODOSKY, called by defendants, sworn)

[3-92] Q. First of all, I would like to show you what I will mark as Defendant's Exhibit 27, which was I believe previously an exhibit in the Hampton case. Could you identify that and tell us what it says?

A. That is the number of births by year that is used for our projections in Jefferson County from, looks like 1960 through 2000.

MR. LEET: Move to admit Defendant's Exhibit 27, Your Honor.

THE COURT: It's admitted.

(Defendant's Exhibit 27 admitted in evidence.)

BY MR. LEET:

Q. I ask you if you can identify what I have marked as Defendant's Exhibit 28.

A. That's the number of births by race for Jefferson County, 1960 to 2000. It is by white and nonwhite births. You can see what the relationship of the two births are by the bar graphs.

Q. What's it tell us? Interpret it for us.

A. Well, it basically tells us that we are fairly stable in terms of births right now, over the last several years.

Q. Okay. How does the nonwhite birth rate compare with the white birth rate?

A. Nonwhite birth rate is going up.

Q. And the white birth rate?

A. And the white birth rate was declining for a while in the early nineties. It made a little comeback and it's stabilized.

MR. LEET: Move to admit Defendant's Exhibit 28.

THE COURT: It's admitted.

(Defendant's Exhibit 28 admitted in evidence.)

BY MR. LEET:

Q. Next I'll show you what—let me first ask you, Defendant's Exhibits 27 and 28, were those used as exhibits in the Hampton case?

A. Yes, they were.

Q. Defendant's Exhibit 29, can you identify that?

A. Yes. This is where we take births in a 12-year cohort and take aggregate births, and then we look at our total population over the 12-year cohort. These would be students that would be in our district as a total district. So the top line are the 12-year aggregate births, and then the bottom line, the bottom years are basically the school year and what our enrollment was during that particular school year. Basically it shows that as aggregate births declined, our enrollment has stabilized. So we aren't on a parallel downward course. Actually, if this was considered a gap, we are closing the gap between aggregate births and our enrollment.

Q. Was Exhibit 29 also an exhibit in the Hampton case?

A. Yes, it was.

MR. LEET: If I haven't done so, I would move to admit it.

THE COURT: It's admitted.

(Defendant's Exhibit 29 admitted in evidence.)

BY MR. LEET:

Q. Defendant's Exhibit 30, Dr. Rodosky, what does that show us?

A. This is the public and private school enrollment 1964 through 1998. The public school enrollment is the top line. The private school enrollment is the bottom line. You will see that in the early seventies we experienced a great decline in our enrollment. It finally stabilized around 1983. And we have gained back some of it beginning in the early 1990's in

terms of an enrollment gain. The bottom line is the private school enrollment, and you will see that there was a little dip in the private school enrollment around '74. It came back and in '76—and it's sort of been the low 20,000—between 22 and 25,000.

Q. Dr. Rodosky, is it a goal of this public school system to maintain good market share in the community?

A. It is. Yes.

Q. Let me show you next what I have marked as Defendant's Exhibit 31. Can you identify that?

A. Yes.

THE COURT: Excuse me. Does the private include parochial?

THE WITNESS: Yes. We as a district have to maintain a census of all schools in the Jefferson County area, including home schools. So on our file we have the fact that student A is a private school and we have that school coded, and so that's how we get this data.

BY MR. LEET:

Q. Dr. Rodosky, can you identify Exhibit 31?

A. Yes. Exhibit 31 is what we call the market share comparison. It has three years on the screen. What we did was our district participated in the Cornerstone 2020 project that was sort of an early 1990's initiative by I believe city and county government at the time in which they divided the county up into areas that they would look at various land use issues of those areas. So we thought it would be a good idea to take the Cornerstone 2020 framework and basically put our public and nonpublic school data within that framework to see how we were doing within each of these land use areas. So what you have is Northeast, West Louisville, Floyds Fork, and I believe that there are some maps that correspond to this that might be coming up, and then there's the public school enrollment and the nonpublic school enrollment. So you can

see where there is growth occurring on some of these areas from I believe 1992-93 to this past year. And you can also see that our market share is basically holding its own.

* * *

[3-123] Q. Now, has the school district ever made any attempt to poll or question graduates on their views about the advantages or disadvantages of desegregation?

A. Yes, we have.

Q. And in what context did the school district do that?

A. Okay. My office, by School Board, I don't know if it's policy or direction to the superintendent, we have to every five years do a follow-up of graduates that graduated five years previous. So in the 2002 year I contracted with the Survey Research Group at the University of Kentucky to survey our 1997 graduates.

Q. And let me ask you if the following questions were asked of those graduates. First of all, question, "I think it is important for my long-term success in life that schools have students from different races and backgrounds in the same school."

A. That question was asked.

Q. Graduates were asked whether they strongly agreed, agreed, disagreed or strongly agreed with that?

A. Right. Yes.

Q. What were the results on that question?

A. 97 percent of the students that were surveyed felt strongly—strongly agreed or agreed to that statement.

Q. And 3 percent of the graduates who were polled disagreed with that proposition?

A. That's correct, yes.

Q. Was this question also asked: "Going to classes with people from different cultural backgrounds, how well did JCPS prepare you"? The options were very well, somewhat well, somewhat poorly or very poorly. What were the results of that question?

A. The results of that question were 89 percent of the students that were in college that had to attend classes, they answered that JCPS prepared them well or strongly prepared them.

Q. Can you identify what has previously been marked and introduced as Exhibit 37 in the stipulations, Dr. Rodosky, which I'll put on the screen?

A. Can I interrupt you? There was a third question on that graduate follow-up survey.

Q. Yes. Wasn't it very similar to the second question?

A. It was very similar, but it was different. It had to do with working, with preparing yourself to work in the workplace with different people instead of attending classes. It had to do with work.

Q. How were the results of that third question that directed graduates to indicate whether they thought the school system prepared them well to work in the workplace as opposed to attending classes?

A. Like 88 percent of the graduates felt prepared or well-prepared.

* * *

[3-160] Q. Dr. Rodosky, keep that handy. What does Defendant's Exhibit 63 tell us about differences in the achievement gap between 2002 and 2003?

A. Well, it shows that we do have a gap and that the gaps vary depending upon what groups we are looking at and that the biggest gaps that we have is in the area of students with disabilities versus students with no disabilities. Basically the third I guess level of the gap—if we were going to sort of rate the gap from most gap to least gap, it would go disability versus no disability, free and reduced lunch versus paid lunch, African-American versus white, and male versus female. And that's the case in almost all these except for I believe something in middle school math.

Q. Let's just talk about African-American versus white achievement gap. Let's focus just on that one.

A. Okay.

Q. You've heard the plaintiffs' counsel talk about what he referred to as a 20-point achievement gap between white and black in the school district. What does Defendant's Exhibit 63 tell us about whether this school district is having success or not having success in reducing the gap between academic achievement among African-American students and white students?

A. Well, I think it is showing that we are reducing the gap. We have one year of data. One of the things that I would like to point out is since I've been associated with the school district, we have always had test data by groups, especially African-American versus other or African-American versus white. One of the frustrating things that I have found out is that starting in 1977-78, we have had differences. We start to close the differences, and then they change the test or they change the scaling or they change something. So, if you look at our data by groups starting in about 1977-78, you will see a trend of closing the gap, and then all of a sudden the test or the measure changes. We had—back in the late eighties, early nineties before KERA, there was a test called the Kentucky Essential Skills Test, and I could only describe it as a very, very basic test, and we were about maybe five to eight points difference in the gap, and you could see it being reduced from year to year.

Then KERA was introduced. Then we went to KIRIS, which was to be piloted. Then we started to look at that data, started to close the gap. Then they changed to CATS. We are really only in—when we think about it, there was a baseline year—a baseline biennium. The baseline biennium was a conversion from KIRIS to CATS. During the second year of the biennium, they then did new performance kinds of things and basically redefining what novice, apprentice, proficient meant, and the schools really got that information

in the—probably the end of the 2000 school year, maybe the beginning of 2000-2001 school year. So we are really in about the third year or the second year of starting to understand the assessment tool, the expectations and the measurement. We are doing a pattern that we have done with other tests, and that is, we are starting to close the gap.

Q. Dr. Rodosky, did the Broad Foundation's recognition of this school district relate in any way to issues involving reducing the achievement gap between African-American and white?

A. It did, yes.

* * *

[3-172] (DR. EDWARD KIFER, called by defendants, sworn)

* * *

[3-179] Q. What does it mean to you when we talk about reducing the achievement gap?

A. Can I say that I have written a paper on that?

Q. Please.

A. It's not what you see in the media. I think the media doesn't do a very good job of telling us what these kinds of issues really are. For me, I wanted to look at it because I was afraid that the kinds of reporting that we get lead to very stereotypic kinds of notions about what those are. So I spent some time on both Kentucky data, the KIRIS data, and Fayette County data to look closely at it. Let me give you a couple of examples that I hope people—I hope people don't draw these kinds of inferences. But the way that this gap is reported, someone could really believe that all white students have higher scores than all black students. They really could believe that.

What happens is when you look at these means, you forget that there are distributions of scores. So what I did in my

paper was try to take a serious look at those scores, and what you find out is that of course there are differences between white and black achievement, but the distribution of scores, the overlaps are substantial. That's one thing. I think that's really important. I'll come back to that.

The second thing that you find is that the relationship between black and white scores, at least in Fayette County, and my guess is true as well in Jefferson County, differs depending upon what school you look at. There were more than a third of the elementary schools in Fayette County where the average black score indeed was higher than the average white score. People would, of course, miss that kind of thing, and it should be pointed out if you close those gaps that you are going to widen the gap at the district level, so that No Child Left Behind sort of puts you in a bind. The other thing, because of the percentage of minorities in Fayette County, that if you go to the black mean, there are I think two or three times as many white students below the black mean as there are black students below the black mean. So that if you viewed this as strictly a remedial kind of thing, you would have far more white students that should be remediated than black students.

I guess, to make a long story short, we are late in the day, this issue is certainly desirable to guarantee each child an equal opportunity in a public school system, and it's desirable to look closely at what those opportunities provide in terms of outcomes, but the issue of the gap I think is much more complex than has been portrayed.

* * *

[3-181] Q. You've already testified about and others have testified about at some length the surveys that you participated in regarding Jefferson County Public School graduates or students and their families. I don't want to belabor that. I only have a couple of questions. In connection with those

surveys, Dr. Kifer, did you find any similarities between how black families and white families viewed what was important in the school system?

A. I think that one, you are referring to the assignment survey.

Q. Yes.

A. Okay. I think—I thought there would be far more disagreement within the community about some of these issues than the survey turned out. There was remarkable agreement among every group in Jefferson County Public Schools about how desirable having diversity in the schools was. It's unambiguously true that Jefferson County citizens believe that that's a desirable characteristic of school systems.

* * *

[3-207] Q. Dr. Kifer, you've talked about how you want to see in a school diversity?

A. Right.

Q. Is improved educational achievement the only reason you want to see diversity in a school if you look in a school?

A. No.

Q. What are the other reasons?

A. Well, I think that -- well, I am a public school freak. I believe so strongly in the schools as being places where opportunities and talents can be developed. I think that it's extraordinarily -- it's the American promise. You get those kinds of opportunities regardless of your background. It's a part of the American ethos that says we ought to learn to live together. What you are talking about is democracy. A piece of the kinds of stuff that the public schools do best is this -- ought to do best is initiating people into what is a very pluralistic Democratic society. That's their goal.

* * *

[5-3] (DR. GARY ORFIELD, called by defendants, sworn)

* * *

[5-13] Q. Based upon the work you have done, Dr. Orfield, the studies that you have reviewed and that you are familiar with, have you formed any opinions regarding the impact on students of racial segregation in the schools, or conversely, the impact on students of racial desegregation in schools at the K to 12 level?

A. Yes.

Q. Summarize the opinions that you have reached on those issues.

A. Well, basically I believe there are quite strong, powerful effects on both minority and white students from desegregation and very negative consequences from segregation or resegregation of schools. To really simplify and summarize that vast body of research, I would say by and large the research shows that black students gain in terms of educational achievement measured by test scores from desegregated experiences. By and large it shows that there is not a significant effect on white students one way or another in terms of test score outcomes.

More importantly than test score outcomes, which test scores of course are very, very strongly linked to parent educational level, income and a variety of other forces outside of schools, but the things that schools appear to affect more dramatically where desegregation has a much easier effect, much larger effect, easier to discern, is in terms of racial—learning how to cooperate and understand across racial lines in terms of what kind of life you have after school, whether you go to college, whether you finish college, what kind of employment you have, how you live and work in communities, and these effects are not just on minority students. They are strongly positive for all groups of students, each of the minority groups that we studied and white students.

Our research shows, by the way, that normally in the United States whites are the most segregated population. Of course, we are going through a racial transition in the United

States where 40 percent of our students are now nonwhite and we are going to have half nonwhite students in another generation. So we believe that the consequences for white students of not being able to understand and operate in a multiracial setting are tremendously negative.

Q. Is it your testimony, Dr. Orfield, that the benefits to black students that come from racial desegregation or racial integration are not limited to matters of academic performance that you can see in test scores but are broader than that?

A. Much broader, yes.

Q. You've testified about your opinion of some of the harmful effects that follow from students' experience in segregated schools. I want to ask you whether it's your belief that the harmful effects are the same if the segregation is de jure segregation, and on the other hand if the segregation is de facto segregation.

A. I believe that the basic effects are the same. Possibly when we used to have officially mandated segregation under state constitutions and where there was all the pressure of the state and the society overtly against any student who wanted to make a transfer into a white school, for example, I think probably if we could compare that experience with what exists now, we would see even more dramatic negative effects. But it seems to me right now if you look at places that are found to be guilty of a history of discrimination and places where that has never been determined, the results are quite similar in terms of the effects.

Q. Let me talk about the benefits for a moment. Are the benefits to black students from attending a desegregated school system the same whether that desegregation is a result of a court-ordered plan, and on the other hand if it results from voluntary desegregation?

A. Well, I think that where you can actually achieve desegregation through largely voluntary means and you get a buy-in by families and by school folks and everyone, that's a

pretty positive way to do it. I think that the benefits are large even if it's fairly mandatory. But I think that when you can have parental and student choices involved as well as ending up with a desegregated setting, that's probably better.

* * *

[5-23] Q. Dr. Orfield, are you familiar with a case that was styled Grutter v. Bollinger involving the University of Michigan Law School that eventually went up to the United States Supreme Court?

A. Yes, very familiar.

Q. Are you familiar with the benefits of racial integration that were identified by the Supreme Court in that opinion?

A. Yes. We did a study of the University of Michigan Law School students which was entered in evidence in that case. I was a witness in the case. The study is included in the book that the Supreme Court cited in the case. So I'm very familiar with that, with the litigation and with the outcome.

Q. Do you believe that a socioeconomic status Student Assignment Plan for Jefferson County, Kentucky that considered just SES data and not race would be successful in fostering the benefits of racial integration that were identified by the Supreme Court in the *Grutter* opinion?

A. I believe that it would be very, very difficult to do, and you would lose a lot in the transition process, and the outcome would be highly uncertain and that it would probably fail in some important respects.

Q. Is it your view that a majority black school is an inferior school?

A. No.

Q. Then why are you concerned about avoiding—

A. My children have all been to majority black schools for part of their education.

Q. I'm sorry?

A. My children have all been to schools like that for parts of their education.

Q. If you don't believe those schools are necessarily inferior, why are you concerned with avoiding a return to majority black schools?

A. I am concerned because I think maintaining integration is very valuable for the entire community, for the black children, the white children and for the future of the community as a society, the kind of democratic outcomes that Justice O'Connor discussed in her decision in the *Grutter* case. I believe those are very, very important and fundamental interests. The problem with a majority black school, especially a small majority black school, is that it tends to resegregate. It's not that that school is inherently inferior. It's that there is a process that will tend to make it not majority, but all black. As those schools go through resegregation, they also become very high in concentrated poverty, and that destabilizes the whole system. That isolates those children. As that process takes hold, it tends to produce polarization of a serious sort.

Q. Isn't it true that prior to the Supreme Court decision in *Brown v. Board of Education*, there were all black high schools that had very high academic standards around the country?

A. There were a few. They basically existed because of very special conditions that existed before *Brown*. Basically there were a lot of very talented African-Americans who had even Ph.D.'s who could not get jobs any place except in those schools. They were able to get remarkable staffs in schools like Dunbar in Washington, a few other schools. At that time only one-quarter of black students were finishing high school, at the time of *Brown*. So you had a much more limited group of students, much more selective in important respects. You had a captive group of highly-trained professionals who were not allowed to live outside of or to work outside the system of segregation. You had the entire black middle class putting its aspirations on those particular schools. None of those conditions exist now. When you go to neighborhood schools or

even if you look at what happened to those schools, if you look at Washington Dunbar High School today, you don't get that result because the black middle class is not confined either educationally or residentially in the same way. So you get extreme concentrated poverty in schools that are extremely separated from the rest of the society, even from the black middle class society, and the black middle class tends to leave them. Those who are there leave them very rapidly.

Q. Do you happen to know whether that's also true of Central High School in Louisville, the last point that you just made that the black middle class tends to leave the school?

A. Well, I understand that Central High School has gone from a little less than half black at the time of the Court decision to 80 percent and that it's gone from 60 percent to 66 percent free and reduced lunch, which is probably an underestimate of the true level of poverty in that school.

* * *

[5-26] Q We have talked a lot this morning about the benefits for black students. Do you have an opinion about whether there's a benefit for white students from attending racially-integrated schools?

A. Yes. I believe there's a very strong benefit.

Q. What is that benefit?

A. The benefit, as the students told us when we studied this in Indiana, was that their communities are not the real world. Whites are segregated. They are segregated primarily in suburban communities, and they are segregated by both race and class. They get little—very little understanding of what the actual society is like in their home communities. White students know that. When they experience diversity, they find it intellectually exciting. They find it positive. It gives them new points of view. It helps them understand other groups. It makes them very confident about their ability to live and work and participate in a society that's multiracial.

Young people know that we are actually going to have that society, that it's actually here. A lot of older people don't understand that. We find kind of remarkably consistent results, very positive results, from students who have been in diverse schools, and they are mostly along those lines, their preparation for entering into a diverse society.

Q. The studies that you have conducted in this area, were they relied upon by the Supreme Court in the *Grutter* decision?

A. Yes.

Q. All right. Do you believe that all of the benefits that flow from racial integration, from diversity, can be proven by reference to a test score?

A. No.

Q. You mentioned a few moments ago that you have done work polling or interviewing students and families here in Jefferson County, Kentucky—

A. Yes.

Q. —and their views of desegregation. Tell the Court about that, if you would, your work in that area.

A. Yes. Well, we did a study of the high school juniors here in 2000, which was published in our book in 2001, and we had an excellent sample of high school juniors, and we got a very good response rate, 90 percent plus response rate, which is excellent for reliability of a survey. We basically found kind of stunningly strong and parallel views of black and white students about the benefits of their school system. We found, for example, that when we asked students whether they were comfortable working with students from different racial and ethnic groups, 61 percent of the white students and 61 percent of the black students said they were very comfortable. Another 31 percent of the white students and 35 percent of the black students said they were comfortable. That's a total 92 percent of the whites and 96 percent of the black students, really stunningly high results in terms of—you couldn't even—if we presented some of those numbers

without actually asking the students, no one would have believed them, I'm sure. These surveys were confidential, by the way, and they did not go to anybody in the schools. Nobody had any way to identify the students. So they could have said whatever they wanted.

We found that students, both black and white students, had very educational aspirations here and that they were similar, and they reported similar levels of encouragement from their teachers. We also found that more than 80 percent of both groups said their school experience had helped them learn how to work and relate to students from other groups. 90 percent of both groups, more than 90 percent, said they were—they would be comfortable working under a supervisor of a different race as adults.

That's one of the reasons the businesses intervened so strongly in the University of Michigan case. They believe that as well, that if you—that what you learn to do is—working across racial lines is not a natural thing in society. It's not something you automatically know how to do. I recently wrote an article for a newspaper in Connecticut where I reported that in more than 30 years of teaching, teaching issues that relate to race relations, I found students who have had interracial experiences in their elementary and secondary school are just vastly more sophisticated in understanding things than students who come from elite suburban schools. They are also much more effective at working together in groups of other students.

One of the things that—one of the important reasons why there's a benefit of diversity in education for all groups of students is that all of our great colleges and universities are diverse. So students have—white students have to make that transition as well as minority students when they get to elite colleges, and our colleges are going to remain diverse thanks to the Supreme Court decision. So if you think about it, you are disadvantaging your child if you don't prepare them to

function effectively in those kinds of settings, certainly even more so for the military and other institutions.

Q. Does a school in your opinion, Dr. Orfield, need to have a particular percentage, a particular racial balance, in order to be a racially-integrated school and to foster these purposes that you believe are laudable purposes?

A. I do not believe there's a particular magic number. I think the important thing is that as much as possible we kind of realize the goals of the Supreme Court in the *Green* decision and have all our schools look like they are part of the overall community, that they all reflect what the overall community looks like within a reasonable range so that the schools are not identifiably white or minority. They are much more stable and much more successful if there's a substantial group of students from each race and if it's lasting, if the desegregation isn't just transitional, as happens in many neighborhoods, but is lasting throughout the students' career.

Q. If a school does not have a critical mass of a minority group represented in that school, then what happens to the school and to the students who are members of that minority who happen to be in the school?

A. Basically students who are in small isolated minority groups in a school are not likely to have a strong effect on the overall school and are likely to feel isolated and are not likely to produce the benefits of an integrated education for all the students in the school. The classes are not as likely to have strong representation of different points of view in class discussions and so forth. When I taught at the University of Chicago, I had very few minority students. I had more than most people. We had only 3 percent black students in our school at that time. When I went to Harvard, all my classes are very strongly integrated. I have lots of black students, lots of Latino students. The diversity within each community as well as between the various groups comes out in much more interesting and rich discussions, and you simply can't exclude those issues.

The last chapter in this book that the Supreme Court cited is by an emeritus professor at the University of Virginia, who tells what it was like to try to teach southern history to an all white seminar before the university was really integrated. He said issues that came up automatically that you had to talk about as soon as you had black students in significant numbers in the class were never talked about before. They were talked about in a completely different way. We are a racialized society. When you have significant presence of two or more of our major racial and ethnic groups, you have a different educational experience.

Q. Dr. Orfield, the studies that you did, the polling, if you will, that was done of students, white and black, in Jefferson County after the Hampton decision, is that information, that data contained within your book—

A. It is.

Q. —Diversity Challenged?

A. Chapter 5.

Q. Chapter 5 of your book is devoted to that?

A. Yes.

* * *

[5-34] Q. On this question of narrow tailoring, Dr. Orfield, I guess what I want to know is why are the race guidelines so important in ensuring racially-integrated diverse schools and academic settings? Aren't there other ways to get to the same result?

A. Well, I think that the most important reality you have in urban school systems is that you have very segregated neighborhoods, and if you just rely on neighborhoods plus a choice that has no desegregation standards in it, there's very likely to be serious resegregation. That's what we see almost every place where this happens. It happens quite fast. The stunning thing is to see in school districts that have never had for a generation a classic ghetto school, for example, to get some of those within two or three years and have them be on

the list of the state's least successful schools, you know, you just get this pattern happening very, very rapidly, especially in the inner-city low income minority communities. Then you get a lot of pressure on your most selective Magnets, which tends to make them whiter and whiter over time. As these forces develop, the community comes apart educationally. People lose a sense of a common school system, which I think is extremely destructive.

I think what's different about—between public schools and colleges when you are thinking about these issues, where colleges only consider race as one factor in the admissions process but public schools have actual standards for maintaining desegregation, is that colleges aren't residentially defined. Colleges are much more varied than schools are. Schools have much more commonality among them, so that the effect of which school you go to is not nearly as powerful as which college you go to.

A pure choice system without any kind of desegregation requirements tends to spin into a resegregation process. We have got lots of evidence on that. We had a faculty seminar at Harvard for a couple of years on the effect of choice programs, and there's been a big study—international study of New Zealand which has gone to this in a massive way that shows a lot of stratification takes place in a pure choice model. We have seen that quite consistently.

I think colleges are also different in the sense that they have small minorities. By and large the elite colleges are in the Affirmative Action businesses. Colleges also never resegregate to any significant pattern. They are overwhelmingly white in their composition. I think schools need a lot more powerful strategies to maintain integration in many settings than colleges do. So if you are looking at what is absolutely necessary to get the job done, colleges can do it with relatively small influence of race as a balancing factor.

Public school systems can't do it without a much more powerful strategy, I believe, and that's why it's so important.

* * *

[5-49] Q. Before we leave these high school gaps, what is your position on an African-American in a desegregated school plan, like the quota plan of the defendants here, versus being four grade levels behind when he graduates in high school here for reading and math? Where do you draw the line? You still want the desegregation?

A. Yes, absolutely.

Q. So you'll trade off desegregation versus a four-year grade level if you have your choice?

MR. LEET: Your Honor, I'm going to object to that. That's not what he said. It mischaracterizes his testimony.

MR. GORDON: He's the expert.

THE COURT: But he didn't say what you just said he said. You can ask the question again. Well, you can ask that question. He can answer the question. I think the premise is a little bit inaccurate. Go ahead.

* * *

[5-50] Q. Let me ask the question again. If I misstate it, I'm sure everyone will correct me. The intent of the question is it is my understanding that if you have a choice between a desegregated school system and African-Americans graduating —desegregated school system with African-Americans and African-Americans graduating four grade levels behind in reading, then you are going to take the desegregated school system instead of the four grade levels behind? Is that a fair way to say that?

A. That's preposterous and a misstatement of my opinion.

Q. Okay. Correct me.

A. I didn't say that. I said nothing like that. I don't believe that. What you are implying in your question is that by segregating the students, they would have a lower educational gap. What I am saying is the research would be—suggests very strongly they would have a larger educational gap in terms of achievement scores. Of course, you are eliminating from consideration all the other nonachievement test score effects of desegregation.

Q. No, I'm not suggesting that at all. What I am suggesting in the Jefferson County Public Schools or what I am looking at here is a pretty strong high school gap. It tells me that African-Americans when they graduate high school are below their white counterparts both in reading and mathematics. Would you agree with that?

A. Yes.

Q. Okay. So the question on the table is if you had your druthers, would you rather have a—would you continue this school system with the desegregated Student Assignment Plan and the gaps that you are seeing?

A. What I believe is that if you went to a resegregated school system, the gaps would get bigger, and I also believe that there are a lot of things that can be done to lower these gaps, but they are very hard and they cost a lot of resources. That's what we really should be working on rather than thinking about resegregating it. Segregated schools have always failed. There's never been an equal and separate school system in the United States as far as I can tell. If you have ever discovered one, I would like to know. I've been asking Abigail Thernstrom and everyone else to tell me where one ever existed. We had thousands of them. So posing this as an alternative is absurd. There's no example of a resegregated place that does better for black students.

* * *

[5-60] Q. This morning did you testify to the educational and social competencies that students develop in schools which cannot be measured in test scores or grades?

A. I did.

Q. And in your opinion as a professor in the School of Education at Harvard University, are school boards responsible for educating students in ways not measurable by test scores and grades?

A. Yes, absolutely.

Q. Indeed, would you say that school districts would be remiss if they focused only on the measurable outcomes?

A. Well, I would say two things about that. A lot of things besides test scores and grades are measurable and are very, very important. Some of them are not. But certainly the whole tradition of American public education has been about creating a society of people who can understand how to function in a democracy and creating a single society out of many diverse people, and that's always been recognized as a central goal of education in the United States, at least as important as any other goal of education, and I think sometimes we forget about that. That's why we created public schools in the United States, and it's a fundamental part of our entire educational heritage. You can see it from the very first days of the discussion of public education. I think we have narrowed our vision seriously to exclude things about our history, about our public life, our democracy, about our culture, and when we do that, it's diminishing what our schools do.

* * *

[5-61] Q. Also, this morning you spoke a bit about the benefits of diversity and the kind of testimony that was placed into evidence in the Michigan cases. You spoke with Mr. Leet as to the relevance of that to K through 12 education. I want to focus on that a little bit more. Are you

familiar with the research in the areas of developmental psychology and school integration that talk about the ages at which children begin to observe racial cues and develop racial stereotypes and prejudices?

A. Yes.

Q. And what does that research tell us?

A. Well, it tells us basically that students come to school initially in Kindergarten, 1st grade without really well-developed racial stereotypes, and they develop somewhere after the 3rd or 4th grade in a fairly serious way, and that it's much better in terms of the development of those stereotypes and ideals about race that children are together from early as possible level.

Q. Do children at these ages learn these lessons only from family or their parents?

A. No. They learn from their social interaction as well. Of course, they learn from their peer groups, and what their peer groups are matters a lot.

Q. Does it also matter then if children are growing up in residentially-segregated neighborhoods? How does that affect the importance of integration in schools?

A. Well, in residentially-segregated neighborhoods they don't have these experiences with diversity in their neighborhood play, in their neighborhood social activity. So the school experience becomes all the more important.

Q. How would you characterize this body of literature you are talking about? Is it dismissed, outdated, dwindling, or is it a growing body of research that's fairly well accepted?

A. I would say there's a very substantial body of research. It goes back into the period even before *Brown*, and it was very vigorous in the sixties and seventies, and it's still going on now. I think we are seeing a revival of some of that work, particularly about multiracial schools.

Q. When we spoke a minute ago about the other educational goals beyond testing and grades, is this the kind of educational goal that you think school districts are responsible for?

A. Yes. I think school districts are responsible for all of these outcomes of education and for having a vision about a child not just as someone who gets a particular score in math and reading, but someone who has—is going to have a life and be a part of a community.

* * *

[5-73] THE COURT: And so based on your work, how would you describe what you believe to be the—assuming you believe there to be an interest, an interest of a public school system in keeping diverse schools?

THE WITNESS: Well, I think there's a lot of interests. One of them is enhancing academic achievement. One of them is increasing the probability that students will complete their public education. Another one is increasing the probability that they will go to college. Another one is increasing the probability that they will function together as workers and citizens in the community in the long run. Another one is improving the racial climate of the community as a whole. Another one is keeping all the citizens of the community seeing all the schools as worthwhile and none of them as different and across a racial barrier that should be seen and treated in different ways in the broader society. I think that—

THE COURT: Is that an interest that is different—so you are saying that in your mind anyway a school system like Jefferson County has an interest in having diverse schools partly because it affects the education of the people at the schools?

THE WITNESS: Yes.

THE COURT: And partly because of the positive benefits of the fact of diversity?

THE WITNESS: Yes.

THE COURT: Not internally what happens, but the existence of it?

THE WITNESS: Yes. I think it has—it affects things way beyond the schools. It also has a lot of effects of other things in the school.

THE COURT: That would be something—in the *Grutter* case, for instance, there was a lot of criticism of the University of Michigan for what was said to be its focus on diversity and its benefits outside the classroom. In other words, the fact—part of what they asserted, they asserted that our compelling goal is all the benefits that flow from a diverse law school.

THE WITNESS: Yes.

THE COURT: Which was said to be—partly those benefits were those that flowed internally, that is, between the students.

THE WITNESS: Yes.

THE COURT: And then it was also asserted that there were external benefits.

THE WITNESS: Yes.

THE COURT: Which was highly criticized and not terribly rebutted in the majority. But it would seem that the Jefferson County Schools have certainly a different interest in that regard and perhaps more of an intense interest in the externalities.

THE WITNESS: I think so.

THE COURT: Assuming they are benefits, that's to be argued, I suppose, but the Jefferson County Schools exist in

much more of a community than the University of Michigan Law School, which sends its—well, the interest that was—sorry to ramble on, but it's important to identify what the interests are.

THE WITNESS: Right.

THE COURT: It was asserted that the University of Michigan or the State of Michigan had some interest in the fact that they had a diverse law school.

THE WITNESS: Yes.

THE COURT: Which was criticized, and perhaps rightly so, because I mean, the University of Michigan Law School graduates go all over—

THE WITNESS: They're a national law school.

THE COURT: What possible interest could the State of Michigan have in that?

THE WITNESS: My daughter is a graduate of that law school and so is my son-in-law, and they are both in Washington, D.C.

THE COURT: I'm sure the State of Michigan is greatly benefitted by that. Of course, they had to pay the out-of-state tuition.

THE WITNESS: Exactly. Believe me.

THE COURT: But that's sort of—the Jefferson County schools might view that a little differently.

THE WITNESS: Yes. I think if you think about public schools, they are the most important function of local government, and the reason that they are and the reason they are supported to the extent they are and taxpayers are willing to pay so much for them is they are absolutely central to the future of the community. They are the most visible and most central formative public service at the local level, and the

reason for that is because they really constitute the future of the community. 90 percent almost of our students go to the public school systems.

THE COURT: One thing that different people have referred to throughout the case and also in the past case was the supposed educational benefits of a diverse classroom.

THE WITNESS: Yes.

THE COURT: And I have never really been able to get a handle—number one, I'm not exactly sure how one would figure that out. I've never really been able to get a handle on what the research actually shows. There were a number—in the Grutter case, there were a number of research studies, for instance, cited in the minority done by your own school, which supposedly showed that—of course, this was dealing with college—that minority students going to all black colleges did better than if they were in an integrated setting. So I'm a little bit confused about what the research actually shows.

THE WITNESS: Well, research is never totally simple and straightforward in the way we would like it to be. So there's always complexities in it. If you look at the study that was done by Derek Bok and William Bowen, former presidents of Harvard and Princeton, that actually followed the life experiences of the students who were admitted under Affirmative Action to all the leading colleges and universities in the country, which the Supreme Court majority opinion cited, they are very powerful transformative experiences in their lives. They actually had—

THE COURT: These were the minority students?

THE WITNESS: Yes. They had tremendous success in completing these very demanding colleges, and their actual service in their professions and in their community were even in excess of the white students who were enrolled. They had

a profound effect not just on the students' individual lives, but on the professions and on their communities as well. They followed—they had this incredible data set that followed students from all the elite colleges in the East and some other places as well from the book called *The Shape of the River.*

I think that the strong weight of evidence, and that's the fair way to say it, is that there are strong lifelong effects of diverse educational experiences and that those can be enhanced and made stronger if you do certain things to create the right conditions for the interactions to take place. And the effects are—relatively the smallest effect is on test scores, but it's significant. It eliminates part of the gap, maybe a fourth. But the larger effects are on life chances, on the chances of finishing high school, going to college, what you do as an adult, what kind of employment you get. All of those kinds of effects are quite powerful.

THE COURT: And who is—in your opinion, who benefits the most and who is least affected?

THE WITNESS: Well, I think that the students that benefit the most in terms of changing their academic success and their life chances easily measurable are the minority students that would otherwise be attending high-poverty racially-segregated schools. But in terms of understanding the society and functioning in the society as it goes through the kinds of changes we are going through and so forth, I think all groups of students benefit. I don't think it's a system a zero sum gain where one group of students loses and another gains. I think it really is one of the few positive sum gains in public policy. If you do it reasonably well and you create schools that everybody is willing to go to, everyone gains substantially. There are ways that you can increase the gains that are well-known.

THE COURT: Following up on that, then how does the critical mass—what is the research that shows that critical mass is important?

THE WITNESS: Well, the research that shows that critical mass is important isn't very large. It's something that virtually everybody who works in desegregation work believes to be true. There was a reasonable body of research about school desegregation that's summarized in a book that Willis Holley edited that says that in his judgment and the judgment of the experts that he consulted, having at least 20 percent of the second group of students present in an interracial classroom is really important for them to be visible enough to make a difference and to create the conditions under which you can have integration take place rather than just a small outside group that's marginalized.

In my own teaching, what I found is if you have a class where you have one or two black students, for example, they are considered the official voice of the black community. They are expected to speak for the entire community, and they are always on the spot. If a third or fourth of your class is African-American students, then everybody sees the differences within that community as well as the commonalities, and there's a much different kind of interaction, and they are just—they are not treated as an afterthought in the discussion where somebody tries to pipe up and say, well, there's a black perspective. It's integrated into the whole discussion that goes on in the class.

One of the theories of school integration is that for schools to be really successful at creating optimal conditions, they have to change from just being like a white school that welcomes a handful of minority students to a school that's genuinely interracial, in other words, that actually respects and reflects both cultures. That doesn't happen when you just have a small group of students from another group.

My own kids on occasion have been—actually started school in an overwhelmingly black school in Washington, D.C. It was very hard to get the teachers to think about the fact that maybe white students needed to hear about white heroes and things of that sort. The same thing happens in white schools that have two or three black students. Basically once you get a substantial number, then those students become a force for changing the school, and their families begin to make demands, which are good demands because they bring about a transformation.

When we started having a significant number of Hispanic students in Harvard Education School, a group of them came to me and said, we have to have curriculum, we have to have professors. Things are excluded in our curriculum that are important to our community. Students here who come from the East need to know about what's going on in the West. I looked at them, and I said, well, I guess we admitted the right people. We have enough here now that we are going to have to begin to do this. That's what we need to do. That's what happens with a critical mass of students as an institution begins to become really diverse. The conditions for optimal learning are equal status interaction and substantial presence of two or more groups in the—at the classroom level and in the school level.

THE COURT: Which is really more important, the critical mass or the fact that they—that a minority group not be segregated to themselves as a majority?

THE WITNESS: I think both of them are important. I think complete segregation is obviously the worst alternative. Token integration is better than that, but—or token desegregation. Substantial desegregation that leads to integration is what really produces the strongest learning conditions.

THE COURT: If you accept this premise, then it would seem that, yeah, there could be valid reasons for reaching this

critical mass, but no one really knows what that is. It can't be defined as an absolute number, right?

THE WITNESS: Well, I don't think at the current state of knowledge I certainly would want to try to do that. When I testified in the Michigan case, I said I think this is the kind of thing that is probably going to differ from community to community and from one part of the country to another because we have different societies, and it should relate to the structure of the overall society in which the child is growing up. So my recommendation to the Court there was that we give some discretion to our educators to make reasonable judgment about that.

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